

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
DECEMBER 19, 2005

UNIVERSITY OF IOWA HYGIENIC LAB
2220 SOUTH ANKENY BLVD.
ANKENY, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Vice Chairperson Jerry Peckumn at 10:10 a.m. on December 19, 2005 at the University of Iowa Hygienic Lab in Ankeny, Iowa.

COMMISSIONERS PRESENT

Suzanne Morrow
Darrell Hanson, Chair –arrived at 2:35 pm
Jerry Peckumn, Vice Chair
Donna Buell
Francis Thicke
Mary Gail Scott
David Petty – arrived at 11:05 am
Lisa Davis Cook, Secretary
Henry Marquard

APPROVAL OF AGENDA

Motion was made by Lisa Davis Cook to approve the agenda as presented. Seconded by Mary Gail Scott. Motion carried unanimously.

Jeff Vonk said that item 14b – Referral to the Attorney General - Iowa Regional Utilities Association has been settled and can be taken off the agenda.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Motion was made by Henry Marquard to approve both minutes from the Special discussion and the regular meeting on November 21st. Seconded by Francis Thicke. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTORS REMARKS

Jeff Vonk said that the legislative breakfast will be held on Wednesday, January 18, 2006 from 7:30 – 9:00 AM at the State Capitol. The next EPC meeting will be on Tuesday, January 17, 2006.

INFORMATIONAL ONLY

CONTRACT – U.S. DEPT OF ENERGY BUILDING AMERICA GRANT – ADMINISTRATION OF THE CONSTRUCTION OF AN AFFORDABLE HIGHLY ENERGY EFFICIENT MODEL HOME

Wayne Gieselman, Division Administrator of the Environmental Services Division presented the following item.

The Department received a grant from the U.S. Department of Energy's Building America program in the amount of \$100,000. Pursuant to part of this grant, the Department intends to execute a Contract, in the amount of \$31,250, with Iowa Central Community College (ICCC), which will provide an additional \$70,000 worth of cost share to ensure the success of the Project. The Building America Program is dedicated to the development and improvement of new and existing residential structures for higher quality, energy efficient housing. The Program promotes systems engineering technologies incorporated into a 'whole building' approach to produce houses with energy efficiency 40% to 70% better than similar houses built to regular building codes.

This contract is executed in conjunction with Contract No. 06-7524-01 that the Department has previously executed with RDG Planning & Design (RDG) for production of a model home design. These contracts are for purposes of making a home more economical (and environmentally amenable) both for its highly energy efficient operation, and for its relatively affordable purchase cost. Under this contract, ICCC will use the model home design specifications produced by RDG, and administer the construction of a demonstration house that will meet the Building America energy efficiency goal, and have a production unit price of from \$90,000 to \$150,000. ICCC will also help verify the energy savings of the demonstration house, and use the knowledge gained from the project for an ongoing training curriculum.

As a condition of the grant, the Department and ICCC are also partnering with Building America's Consortium for Advanced Residential Buildings (CARB) for technical assistance without charge to this contract. CARB's review and advice services for the total project, including RDG's production of the model home design not covered by this contract, will be worth approximately \$35,000 in total additional cost share. About 45% of the total project costs are covered by this contract, which means CARB's cost share here is approximately \$15,625.

DNR Contract Value	Cost Share Providers
\$31,250	Iowa Central Community College: \$70,000
	CARB: \$15,625

Motion was made by Donna Buell to approve the contract as presented. Seconded by Lisa Davis Cook. Motion carried unanimously.

APPROVED AS PRESENTED

Lisa Davis Cook suggested that this would make a great tour for the Commission.

CONTRACT AGREEMENT 2006-7162-01, LABORATORY CERTIFICATION

Wayne Gieselman, Division Administrator of Environmental Services presented the following item.

The Department requests the Commission's approval to enter into a contract with the Iowa Central Community College. A description of the project and its funding is attached.

The Department requests Commission approval of a contract in the amount of \$298,592 with the University Hygienic Laboratory (UHL) for Environmental Laboratory Certification services between January 1, 2006 and December 31, 2007.

This purpose of this contract is for the UHL to assist the Director of the IDNR in determining the qualifications of laboratories requesting environmental certification for the analysis of:

- drinking water for compliance with the Safe Drinking Water Act (SDWA) program,
- water and soil samples for compliance with the Underground Storage Tank (UST) program,
- treated and untreated wastewater, surface and groundwater, sludge and soils for compliance with the Waste Water program (WW), and
- solid waste and contaminated site samples for compliance with the Solid Waste and Contaminated Sites program (SW/CS).

The amount of the agreement is estimated at \$298,592. The agreement amount is an estimate because actual cost will be based on the number of laboratories applying for certification in the calendar year. The agreement amount reflects UHL's best estimate of their actual costs plus the UHL's indirect cost rate.

Pursuant to Iowa Code 455B.103, the department is required to contract with the UHL for these services unless the required services cannot be provided by the UHL.

The fees paid by laboratories [Cost Center 7162] are used to support 100% of the cost of the agreement.

Motion was made by Francis Thicke to approve the contract as presented. Seconded by Henry Marquard. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT - UNIVERSITY OF NORTHERN IOWA'S (UNI) IOWA WASTE REDUCTION CENTER – SMALL BUSINESS ASSISTANCE PROGRAM

Wayne Gieselman, Division Administrator of the Environmental Services Division presented the following item.

The Department requests Commission approval of a contract in the amount of \$218,984.00 with University of Northern Iowa's Iowa Waste Reduction Center (IWRC) to continue to allow the Iowa Air Emission Assistance Program (IAEAP) to provide technical assistance to small businesses.

The IAEAP is the technical assistance component of the Small Business Assistance Program. The Small Business Assistance Program is required by Section 507 of the Clean Air Act. The IAEAP assists small businesses with air permitting requirements, emission estimations, and determination of regulatory status and compliance requirements. They also provide small businesses with on-site visitations for compliance and pollution prevention assistance, and information concerning alternative technologies, process changes, procedures and methods of operation that help reduce air pollution.

Through amended contracts, approved by the Commission in June and August respectively, the IAEAP was provided \$216,678.00 to continue assisting small businesses through December 2005 while contract negotiations and a business process improvement (Kaizen) event were completed. During the week of October 3, 2005, the IAEAP and the Department, with the help of other small business assistance providers and a consultant who specializes in process improvement, evaluated the processes and procedures used by the IAEAP in their delivery of services to small businesses. The event resulted in the streamlining of processes used by the IAEAP in permit application and emissions inventory preparation, the establishment of an on-going IAEAP staff training plan, integration of the IAEAP into the long range planning activities of the DNR and other small business providers, validation of the resource needs of the IAEAP, and improved reporting and accountability in the contract.

The agreement is for the period of January 1, 2006 through June 30, 2006. The agreement is funded solely through Title V air quality operating permit fees.

Motion was made by Donna Buell to approve the contract with UNI as presented. Seconded by Mary Gail Scott. Motion carried unanimously.

APPROVED AS PRESENTED

MEMORANDUM OF AGREEMENT BETWEEN THE U.S. ARMY CORPS OF ENGINEERS AND THE DEPARTMENT

Wayne Gieselman, Division Administrator of the Environmental Services Division presented the following item.

The Department requests Commission approval of a Memorandum of Agreement in the amount of \$56,100 between the U.S. Army Corps of Engineers, Rock Island District, and the Department for water quality monitoring.

The purpose of the Memorandum of Agreement (MOA) is to supplement the U.S. Army Corps of Engineers (COE) water quality monitoring at eleven sites associated with Coralville, Red Rock, and Saylorville Reservoirs. This is a cooperative monitoring project between the DNR and the COE to continue the long-term monitoring within the Des Moines and Iowa rivers. These eleven COE sites are extremely valuable because they represent the longest monitoring records in the state. This MOA provides funding for five parameters: total phosphate, dissolved orthophosphate, total nitrogen, dissolved silica and total organic carbon. These parameters provide critical information on the movement of nutrients in Iowa streams. The agreement between the COE and DNR also provides comparability in monitoring efforts conducted by the two agencies. The supplemental MOA is an on-going project and has been in place since fiscal year 2000. All data are provided to the DNR in monthly reports and summarized in an annual report.

Funding for this agreement is available from the infrastructure state funds appropriated as part of the Environment First Fund.

Motion was made by Henry Marquard to approve the MOA as presented. Seconded by Sue Morrow. Motion carried unanimously.

APPROVED AS PRESENTED

**DRINKING WATER AND CLEAN WATER STATE REVOLVING LOAN FUND – 2006
INTENDED USE PLAN THIRD QUARTER UPDATES**

Patricia Cale-Finnegan, of the Water Quality Bureau presented the following item.

Environmental Protection Commission approval of the third quarter updates to the Drinking Water and Clean Water State Revolving Fund Intended Use Plans (IUPs) for FY 2006 is requested. The Commission approved the FY 2006 IUPs in July 2005 and approved the second quarter update in September 2005.

The third quarter updates include amended lists of projects proposed to receive loan assistance. The Drinking Water SRF IUP update includes three new requests this quarter. Five new projects, one supplemental loan, and one planning and design loan are being added to the Clean Water SRF IUP.

A public meeting was held November 10, 2005. No oral or written comments were received.

Patti said that we are beginning to see demand. Privately owned facilities are not qualified, only publicly owned are eligible for SRF.

Motion was made by Lisa Davis Cook to approve the SRF updates as presented. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

CHARLES CARPENTER, of Coon Rapids supports the proposed rule amending Ch. 65 of IAC. The state of Iowa very much needs these rules that give limited and sensible authority to the Director regarding confinement feeding operations and manure management plans. Iowa needs these rules because the City of Audubon currently has 21 shallow wells located east of the river. The two year capture zone of well #21 has a manure management plan. There is a confinement site in construction for this fall. The location is approximately 1/3 mile from the ten year capture zone of well #20 and about one mile from the entire municipal well field. It is currently being constructed as a SAFO but will more than likely be expanded. There is concern of flooding and leaking from this site that could affect the well field. The siting of this operation is neither sensible or responsible. The proposed rule would help reduce the number of poor decisions being made. Spare the people of this state the environmental degradation. I hope this Commission will pass these rules in there current form.

GARRY KLICHER, President of ICCI thanked the DNR and Commission for considering the rule to allow for department evaluation of construction permits. These are very much needed rules. There was an University of Iowa study done in Southeast Iowa that demonstrated that children living on or near a hog confinement have greater problems with asthma than the generally population. There was a new confinement built very near a daycare center in Birmingham. We need to be more sensitive to the location of these confinements.

KEITH FREIE, of the Farmer's Coop said that we do need regulation to control such matters in Iowa, but I'm afraid that if we get carried away without knowing what this industry is all about we could force this business into the hands of a few people that do have the money to deal with any regulations that are put forth. My family and extended family own five of these facilities and the sixth one that we operate is owned by an investor. We are perfectly a legitimate operation. Before you put forth more regulations, you need to see for your self what these facilities are like. I would invite anyone out to my facilities.

Jerry Peckumn asked if livestock could be raised in Iowa without polluting the air and water.

Keith Freie said that it's pretty much being done now, but there have been instances where there have been manure spills. The industry as a whole works good and has come a long way in the last few years. There is no perfect system. Some families depend on the income from these facilities and when that is the case, environmental compliance is taken very seriously.

Henry Marquard said that the department is not giving more regulations, but making allowance for environmental protection.

Keith Freie said that the DNR is probably sincere with their intent but I am concerned with misinformation and politics getting involved.

RICH LEOPOLD, from the Iowa Environmental Council said that the water quality standards work. The DNR staff has done a tremendous job.

I commend the department for looking at the proposed rule #9 to allow for department discretion in new construction permits. The producers need clearly defined standards.

We are concerned with the permit for the Agri-Processors variance. We are concerned with the process of that variance. It was made very clear from the EPA to the DNR that this is just the same as changing a water quality standard. It has to come before the EPC for decision, notice for public comment and then approved by the EPA, then it becomes a variance. We just want to make sure that this process is transparent throughout.

MICHAEL JAY, environmental scientist from the United States Environmental Protection Agency submitted the following remarks:

In CAIR (Clean Air Interstate Rule) it requires the largest reduction of air pollution in a decade. It will ensure that citizens of Iowa and the rest of America continue to breathe cleaner air by dramatically reducing air pollution that moves across state boundaries. By year 2015, CAIR will provide health and environmental benefits valued at more than 25 times the cost of compliance. When fully implemented, CAIR will reduce power sector SO₂ emissions the eastern states by over 70 percent and NO_x emissions by over 60 percent. The rules provide flexibility to the state as the state retains its discretion to determine how to meet these reduction targets. To assist the states we have also provided the option of joining the EPA-run cap and trade program. I am here to support this approach and the department's decision to propose a rule that adopts this program. We believe this proven approach provides the most cost-effective means to meeting these targets.

The intention of the Clean Air Mercury Rule is to build on CAIR to significantly reduce mercury emissions from coal-fired power plants which currently remain as the largest single source of mercury emissions in the country. CAMR will be the first-ever federal rule to permanently cap and reduce mercury emissions from coal-fired power plants making the United State the first country in the world to do so. When fully implemented, these two rules will reduce utility emissions of mercury from 48 tons a year to 15 tons, a reduction of nearly 70 percent. As with CAIR, the states have the flexibility to determine how to meet the reduction requirements and the option of participating in the EPA-run cap and trade program.

We believe the mandatory declining emission caps in the rules, with significant penalties for noncompliance, will ensure that the rule's mercury reduction requirements are achieved and sustained. At the same time, stringent emission monitoring and reporting requirements ensure

that monitored data are accurate, that reporting is consistent among sources – and that the emission reductions occur. I also want to emphasize that this approach provides flexibility of allowance trading and therefore creates financial incentives for plants to look for new and low-cost ways to reduce emissions and improve the effectiveness of pollution control equipment. This flexibility is crucial to the success of this rule in part, due to the high variability of the performance of available control technologies to the industry. To take a lesson from history, our highly successful acid rain program has taught us that when we provide industry flexibility and an incentive, we bring about innovation. These innovations lead to greater emission reductions that are quicker and cheaper than traditional command and control approaches we have used in the past.

In closing I would just like to say to the commission that the rules put for the by the department have received and will continue to receive a great deal of scrutiny. Part of this scrutiny was brought to bear by an active stakeholder process that was undertaken and led by the department. These are very complex rules, and the department had the leadership and the foresight to organize a diverse group, and to meet early and often. Theist allowed them to garner a recommended approach before determining for themselves what the best course of action would be. At EPA we agree with the department that it makes sense to address mercury, SO₂ and NO_x emissions simultaneously by utilizing the cap and trade approach of both rules. Once the rules are officially proposed, I will review them and provide comments back to the department.

JIM RUBIS, farmer from Jefferson County addressed the proposed rule for CAFOs. The citizens in Jefferson county have been very isolated from CAFOs, but there has been a dramatic increase in CAFOs. We have raised about \$15,000 in dealing with the issues of confinement operations in Jefferson County. This is an emergency. We need to go through with the standard procedures but this is an emergency with the huge increase in applications. I'm glad to see the concern for water quality and the comments about air. Water is much more important. Economic development is another issue. The livestock industry in Iowa has only helped small amounts of people, and to me that is not economic development.

RACHEL GARST, from Coon Rapids said that her family is currently making a gift of 5,000 acres of conservation land worth \$7 million dollars plus a substantial endowment to the new non-profit Whiterock Conservancy. The Whiterock Conservancy board consists of individuals from Leopold Center, Natural Heritage Foundation and the DNR. It's mission is environmental restoration and research, sustainable land management including natural resource based economic models and low impact public use including fishing, canoeing, bird watching and astronomy. Our community was recently named a "Great Place" by Governor Vilsack. In our areas we envision private operators with hotels, RV parks, trail riding, vineyards, blacksmiths and other types of rural tourism. We have discovered in reviewing the current rules that there is no additional separation distance requirements from private parks, such as Whiterock. ½ or ¼ of a mile is not an adequate separation distance! We are in support of the proposed rule to give the department discretion on the location of confinement operations.

ROSIE PARTRIDGE, ICCI member from Sac County submitted the following comments:

Iowa CCI members support DNR's proposed factory farm permitting application rule and are calling for its immediate implementation. This rule is exactly what Iowa needs to protect our environment from factory farm air and water pollution. It is years overdue.

We currently face record numbers of permit applications for factory farms. This poses an ever increasing threat to Iowa's water, air and neighbors' health.

It is critical that we get a handle on this right now. The DNR needs the flexibility to say no if it doesn't make sense for a facility to build or spread their manure in certain locations.

We urge the EPC to vote yes on this rule. This rule gives DNR the ability to do their job right. We must have it in place now to prevent more out-of control construction.

This rule will force factory farmer owners to think about the adverse impacts their proposed facility will have and force them to address those issues before applying. The state can not continue to rubberstamp permit applications that have the potential to adversely impact the health and quality of life of rural residents or the environment.

Iowa's list of impaired waters continues to grow. We have had over 400 reported manure spills in the past 10 years. This doesn't take into account unreported spills, chronic runoff, or seepage into ground water.

The number of lakes, rivers and streams contaminated with fecal coliform bacteria is astonishing. Some areas of the state have such heavy concentration and land so saturated with manure that the facilities have to truck the manure miles away.

There is a site in Van Buren County that is building near a daycare facility. Another site in Fayette County is building on karst ground. One proposed site in southeast Iowa contained almost exclusively highly erodible land, much of which had a 14% slope which drained right into the streams. These examples illustrate why we need this critical rule now.

Again, we support DNR's rule and urge you to vote in favor of it.

CINDI RINGERBERG, member of ICCI individually thanked each commissioner for their time, courage and special talent on all the decisions that need to be made to protect the environment. You are a blessing to me and all of Iowa. Strongly supporting the immediate implementation of DNR's proposed rule to deny environmentally threatening CAFO permits and MMP is essential in protecting the area inhabitants. Your decision to deny the rule without delay will impact more lives than just one mom and one baby.

MARILYN ANDERSON, member of ICCI from Story City lives next door to a CAFO. I see the problems that they can cause. I would encourage you to implement this proposed rule right away to protect our environment from further degradation from the CAFOs.

STEVE VEYSEY, representing the Hawkeye Fly Fishing Association addressed the issuance of variances to water quality standards. On December 1, 2005 the DNR approved a requests for two variances to the water quality standards to Agri-Processors Inc., of Postville. In my opinion, this was all done without the process. This decision was made without informing EPA. As we work together towards improving Iowa's water quality standards, we must remember that the standards are just words on paper unless they are properly implemented. The standards become meaningless if variances are granted without proper notification and input from the public, reviewed by the EPC and final approval by the EPA. These safe guards must be protected if we are to reach a consensus on the actions necessary to improve water quality in Iowa. In a letter to the DNR from the EPA, it states that the following:

Question 1: Is a variance from Iowa's existing WQS required in order to issue an NPDES permit?

Answer: Yes

Question 2: Is EPA's approval of a variance required before it can be used in a NPDES permit?

Answer: Yes, Each variance requires the same approval process as a modification to a states WQS.

...the variance is granted for a specific period of time and must be justified upon expiration but at least every 3 years.

I am very concerned with this process. I don't believe it's transparent.

Henry Marquard asked if he was referring to an isolated case or is this DNR's policy.

Steve Veysey said that it's DNR's staff policy. It's state law when you're granting variances to state rules and this commission should be voting and just reviewing. The DNR has been informed quite clearly on what the rules of variances are.

Henry Marquard asked then that the EPC can vote approval not just review variances.

Steve Veysey said that is EPA's contention and I believe they are correct.

Donna Buell asked if the regulations contradict.

Steve Veysey said that the regulations are contradictory when you are issuing a national permit under the Clean Water Act, because those variances require approval by EPC and EPA.

MIKE BLASER, from West Des Moines said that Iowa has seen record numbers of confinement operations this year but spite the record growth, only three construction permits out of over 200 were appealed to the EPC and only a handful of the 630 total construction projects resulted in environmental concerns. For the most part, Iowa producers did a good job in siting their operations this year and they should be commended. The rule 809 can not be done out of

response to what producers did in 2005, rather it's a response to the concern of industry growth. The rule grants Director Vonk extraordinary, discretionary power over livestock operations when there has been no showing of an extraordinary circumstances justifying the need for that power. Producers will still have to comply with all rules, laws and pay all fines; however producers will have no assurance that after following all rules and regulations on the book that their operation will be approved. I believe that the ICCI press release sums this rule up real well.."that if the rule passes factory farm permits and the manure management plans can be denied if the DNR *feels* that they pose a threat to the natural resources and to the environment."

We should not base these decisions on feelings but on a clear study on environmental expectations on standards that producers can understand as they make their own economic decisions.

Francis Thicke said that as a commissioner I received 99 e-mails this past week. A lot of times people don't always see and hear problems because of the current rules. They see that there is no reason to even say anything.

ARYLISS KELSEY, ICCI member from Hardin County said that Hardin County has the most hogs and confinements in the state. I am not proud of this. We need this rule now! At Beed's lake where we used to take our children when they were small, it is on the impaired list because of the high bacteria count and we won't take our grandchildren there. Iowa Falls is home of the Iowa River, which is very key in for tourism. We have weekly tours on the river. It is very important that we pass this rule and allow the DNR to do their job and give them more flexibility. People are leaving the state. We need this rule now, before the construction season begins in the spring.

NEILA SEAMAN, Director of the Sierra Club supports the referral of Kruse Dairy Farm to the Attorney General.

We fully support the proposed rule regarding department evaluation; denial of or condition of construction permits or disapproval or modification to MMPs. We would also support this as an emergency rule but we understand the reasons to go through with the rulemaking process.

It's nice to hear that there will be a fish advisory protocol given to the public for the consumption of fish and contaminant levels, especially mercury.

CAMR – I appreciate including the language that would mitigate the excessive definition of mercury. Is it the percentage of the allowance allocation of that particular site? Is there inclusive monitoring involved? How will the public know that if excessive definition is discovered? I would encourage you to table this item until all questions can be answered.

A copy of the Clean Water Act manual was distributed to each Commissioner.

PAM MACKEY TAYLOR, with the Sierra Club said that it is the DNR's responsibility to protect the water we drink and use for recreation and the air we breathe from pollution. The DNR is doing this on behalf of the citizens of this state. When businesses and industries come to the DNR for permits to pollute, it is the DNR's responsibility to protect the citizens first. When

industries come to you, their primary goal is to increase profits and reduce expenses. Regardless of whether it is a business, industry or governmental body, they will always come to you and ask that you relax the requirements. It will always be more profitable to pollute. To that end, we encourage you to adopt new water quality standards and the CAFO rule needs to be adopted now. We are concerned with the variance that was issued to Agri-Processors. That permit needs to be denied. We're also concerned about how the DNR is presenting the new water quality standards to the public. They are over emphasizing the costs to municipal wastewater facilities in order to comply with the new water quality standards. If you do not implement the new water quality standards, we believe that you will be losing your authority to implement the Clean Water Act.

STEVEN TEWS, ICCI member from Bloomfield said that the water in the world is in a crisis. It's time to allow the DNR to protect the environment. It's disappointing that Lake Rathbun is not being monitored. Human waste is more regulated than animal waste. There is twice as much animal waste than human within in the state. . CAFOs should follow the same rules that human waste treatment facilities do. Waste is waste, it doesn't really matter the source besides the concern with different diseases.

RICHARD BIRD, ICCI member said that the department's CAFO rule is a very good step in working towards clean water. This state has been going down hill in pollution. Water is getting more progressively fifthly. The waters in New Orleans was described as a toxic soup. Some people in Iowa that have tested our waters said that our waters are worse. There are over 200 bodies of water in this state that are polluted. Studies have shown that 75% of this pollution is coming from hog confinements. If we can make the step in the right direction and start decreasing this, it can do nothing but help this state. The state has many problems and we need to start working on them. We can't keep putting them off using the "bad science" route. We know where the harm is coming from, let's start working against it.

Mary Gail Scott said that she has heard people mention that some streams in Iowa are worse than the waters in New Orleans. Because bacteria may highly contaminate waters in New Orleans and in Iowans streams, doesn't mean it's the same toxic bacteria. I find it really hard to believe that Iowa waters have the same toxic bacteria as New Orleans waters. I want to know for a fact that this is the same contamination or if individuals are using this as a scare tactic. Bacteria isn't bacteria across the board.

Richard Bird said that he is not sure what the exact bacteria is.

David Petty asked what the source was for the...."75% of all water pollution comes from CAFOs?"

Richard Bird said that he believes it came from the university study.

David Petty said that if he's not sure, he should look into the facts beforehand. A study from ISU states that 98% of nutrients comes from rich Iowa soils.

PHYLLIS MAINS, from rural Decatur County is speaking on behalf of her husband. Thank you for the proposed amendment on confinement operations. Our family farm was poisoned by agricultural run off forty years ago. We choose to move back to Iowa to retire. We choose a location where we thought confinements would not be built. We are ashamed to say that there is an overuse of manure. I think this rule needs to be emergency. I resent having to be exposed to water and air pollution, while those who are adding to the pollution are getting rich.

PETE HAMLIN, representing MidAmerican Energy supports both of the Clean Air Interstate (CAIR) and the Clean Air Mercury (CAMR) rules. We do have reservations with the mercury rule, if the Department in the future decides to implement the coal fired power plants. We are concerned with the costs involved. There is no way to measure mercury and ambient air. There is also no way to measure mercury in stack. MidAmerican is currently building a facility in Council Bluffs that will be able to measure mercury. We recognize that there is a problem and we are taking steps to help it. About 60% of the boundary waters in Minnesota had mercury emissions and there is no plant nearby. There is a very small amount of mercury in coal.

Henry Marquard commended MidAmerican Energy for their protective efforts.

Iowa Pork Producers Association submitted the following statements:

The Iowa Pork Producers Association is a non-profit, non-partisan organization representing pork producers across Iowa. On December 9, 2005, the IPPA Board of Directors discussed this proposed rule and voted to strongly oppose the rule. The objections include:

- This rule introduces the first totally subjective approach to add-on requirements to determine if a construction permit or manure management plan will be issued. See examples in the rule such as "potential adverse impacts on natural resources or the environment", "would reasonably be expected to" and "an unacceptable burden on natural resources or the environment."
- The standards for DNR to exercise its discretion are very vague. See examples above. It will be very difficult for a producer, especially small family farmers, to know if a proposed barn will meet the DNR requirements in this rule before the producer invests time and money in preparing a permit application and/or manure management plan. Furthermore, most family farmers cannot simply relocate if the land they own and farm is deemed unacceptable by DNR.
- Because of the broad discretion given by DNR in this proposed rule, the rule gives the DNR the power to override over 10 years of environmental legislation which established detailed standards for construction permit and manure management plans.
- Because the proposed rule applied to proposed operations, it essentially removes the management component from DNR's analysis under this rule in that DNR will make decisions about how a proposed operation might impact the environment before they know how it will be managed.
- Apparently, the number of permit application this past year is the major driving force behind this proposed rule. However, this number is artificially inflated because in 2002 the permit threshold was lowered from 625,000 pounds of weight capacity (about 4,100 head of finishing hogs) to 2,500 head. Obviously, more permits are going to be issued

when the law required smaller operations to get permits. In addition, even with increased construction activity, DNR has indicated that the number of complaints is down substantially and court records show that the number of nuisance suits is down by half compared to several years ago.

-----End of Public Participation-----

PROPOSED RULE - AMENDMENT TO RULE REGARDING DEPARTMENT EVALUATION; DENIAL OF OR CONDITION OF CONSTRUCTION PERMITS OR DISAPPROVAL OR MODIFICATION OF MMPS FOR CONFINEMENT FEEDING OPERATIONS

The purpose of the proposed amendment is to extend the department's authority to evaluate construction permit applications and manure management plans for impact on natural resources or the environment and to prohibit construction in the proposed location or to deny or condition/modify applications or plans that are reasonably expected to result in specified impacts. The amendment will potentially increase the requirements necessary to obtain a construction permit or approval of a manure management plan, but also provides the opportunity to challenge the department's action in a contested case proceeding.

Jeff Vonk said that this proposed rule is to let individuals know that in addition to the criteria that is currently used to review construction plans and manure management plans, that there is additional environmental protection criteria that we intend to evaluate. There are four items that we intend to look at:

1. likelihood manure will be applied on frozen or snow-covered cropland.
2. The proximity of the structures or manure application areas to sensitive areas, including but not limited to publicly-owned land, designated areas, trout streams and karst terrain.
3. Topography, slope, vegetation, potential means or routes of conveyance or manure spilled or land-applied. This factor includes but is not limited to whether the manure application areas include cropland with predominant slopes of greater than 9 percent without a conservation plan approved by the local soil, and water conservation district or its equivalent and whether manure for land application is hauled or otherwise transported more than 5 miles.
4. Whether the operation or manure application area is or will be located in a 2-year capture zone for a public water supply.

We believe we have the authority to move forward with this under the existing code. When this rule was first publicized it was proposed with a double barrel approach for emergency rulemaking. After this was made public, we received significant feedback from folks that advised us that the rule itself would be called into jeopardy over the process being used rather than the content of the rule being proposed. For that reason, we have decided to move forward

with the normal rulemaking process. This will be back next month as a Notice of Intended Action.

Most of the comments today have been directed toward the hog industry, but this rule is not directed towards the hog industry, it's for all segments of animal agriculture. We have attempted through state statute and through previous rulemakings to very specifically describe every circumstance that this department has the authority to consider. We are trying to create some flexibility to work with the developer and to help them avoid environmentally sensitive areas upfront.

I have talked with field offices and collected information on how many operations would have been impacted and within the last five years. We believe this rule would have an impact on about twelve operations in that time. That's a very small number of sites considering how many permits have been issued. This is not about trying to stop the expansion of the livestock industry in Iowa but rather to strike a balance for additional flexibility to protect the environment.

I believe we need this additional flexibility and rule to help protect our environment.

David Petty said that he knows Director Vonk will make the right choice but, "what happens when a new director steps in."

Jeff Vonk said that it's hard to say what the next director will do but whatever he/she try to do, it will come before the EPC again.

Henry Marquard said that he agrees with not moving forward with the emergency rule. What kind of legal authority is this rule under?

Jeff Vonk referred Henry to IAC 459.303, 459.103 and 459.312.

Donna Buell asked if economic development can be taken into consideration when evaluating a site.

Jeff Vonk said that the rule does not factor in economic development but rather the factors of environmental issues, not so much public recreation values.

Lisa Davis Cook asked when the final rule will be in place.

Jeff Vonk said that there will be three hearings held across the state in February with a 60 day period for public comment. The final rule could be back as soon as April or May. The rule will not address air quality issues, it is targeted to water quality. We are waiting to hear from EPA on an air quality study related to livestock.

Henry Marquard said that he would like to see this rule expanded to include odor and air quality issues.

CHRIS PETERSON, representing Iowa Farmer's Union supports the proposed rule regarding department evaluation of construction permits for confinement feeding operations. We need to find ways to clean up our water. That should be a major objective of this state. There needs to be a shared responsibility on everyone's part.

INFORMATIONAL ONLY

NOTICE OF INTENDED ACTION – AMEND IAC 567—CHAPTER 144 “HOUSEHOLD HAZARDOUS MATERIALS”

Jeff Myrom of the Energy & Waste Management Bureau presented the following item.

The Commission is requested to approve the attached Notice of Intended Action (NOIA). The NOIA is to amend IAC 567-Chapter 144 to include any hazardous waste, hazardous substance and color cathode ray tubes as a household hazardous material.

Iowa Code 455F includes hazardous waste and hazardous substances used for residential purposes in the definition of a household hazardous material. Adding hazardous waste and hazardous substances to the rule will make it consistent with Iowa Code.

EPA has determined that color cathode ray tubes (CRTs) are a hazardous waste based on toxicity characteristic leaching procedure (TCLP) test for lead. The average concentration of lead in leachate from EPA's TCLP test is 22.2 milligrams per liter. Materials testing above 5 milligrams per liter of lead are classified as hazardous by EPA (See Federal Register Volume 67, Number 113, dated June 12, 2002). Therefore, color CRTs will be added to the definition of household hazardous materials to reflect EPA's hazardous waste classification rules.

Retailers that sell household hazardous materials are required to obtain a Household Hazardous Materials Permit and post information materials provided by the Department. The permit fee is \$25 annually. By adding CRTs to the list of household hazardous materials, retailers who sell CRTs will be required to purchase the HHM Retailers Permit each year and make information available to their customers as to where they can properly dispose of household hazardous materials. Many CRT retailers are already required to obtain a Household Hazardous Material permit due to other items sold such as solvents, motor oil, gasoline and diesel fuel additives, waxes and polishes, oil based or aerosol paints and caustic household cleaners.

The money generated by the permit is used to provide educational materials for retailers, to provide Toxic Cleanup Days, HHM Education Grants and administrative support for the household hazardous materials programs

A public hearing will be held on February 8, 2006 at 11:00 a.m. in the 5th floor West Conference room of the Wallace Building.

The Commission is requested to approve this Notice of Intended Action.

Henry Marquard suggested that the commission go on a tour of a demanufacturing plant.

Motion was made by Lisa Davis Cook to approve the NOIA – Ch 144 as presented. Seconded by Mary Gail Scott. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION: AIR QUALITY PROGRAM RULES CHAPTERS 20, 21, 22, AND NEW CHAPTER 34: ADOPTION OF THE FEDERAL CLEAN AIR INTERSTATE RULE (CAIR).

Christine Paulson, Environmental Specialist Senior of the Program Development Section presented the following item.

The Department is requesting permission of the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 21, "Compliance," Chapter 22, "Controlling Pollution," and add new Chapter 34, "Provisions for Air Quality Emissions Trading Programs" of the 567 Iowa Administrative Code.

The purpose of the proposed rule changes is to adopt the recently finalized federal Clean Air Interstate Rule (CAIR) into the state air quality rules. The proposed rules will also make necessary updates and changes to existing air quality rules to implement CAIR.

This item was presented to the Commission last month in an information item. The Department did not make any substantive changes from the information item. The Department did make some minor corrections and changes to the proposed rule. The Department also made some minor changes to this brief, and to the proposed rule preamble, to better describe the proposed rule changes.

On May 12, 2005, the U.S. Environmental Protection Agency (EPA) promulgated CAIR to address interstate transport of sulfur dioxide (SO₂) and nitrogen oxide (NO_x) emissions from eastern and midwestern states, including Iowa, which were found to contribute to unhealthy levels of fine particles and ozone in downwind states. Fine particles and ozone are associated with thousands of premature deaths and illnesses each year. Additionally, these pollutants reduce visibility and damage sensitive ecosystems.

Iowa is currently in attainment for all national ambient air quality standards (NAAQS). Iowa is included in the CAIR provisions because EPA found that Iowa's emissions contribute to downwind nonattainment of air quality standards. As such, Iowa is required to meet EPA-prescribed emission targets for SO₂ and NO_x in two phases. The first phase begins in 2009. The second phase begins in 2015.

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EPA determined that controlling NO_x and SO₂ emissions from fossil fuel fired electric generating units (EGUs) to meet CAIR reduction goals was highly cost effective. EPA provided two options by which affected states to adopt CAIR: 1) Adopt EPA "model" rules that require EGUs to participate in an EPA-administered interstate cap and trade program, or 2) Mandate emissions controls and cap emissions from one or more industry sectors.

In May, 2005, the Department convened a workgroup to assist with rulemaking activities related to the adoption CAIR. The workgroup's goal was to provide rulemaking recommendations on implementation options of the federal rules. The Department invited the following parties to participate in the workgroup:

- Investor owned, municipal and rural electric cooperative utilities;
- Iowa Association of Municipal Utilities and Iowa Utilities Association;
- Iowa Utilities Board and Consumer Advocates Office;
- Iowa's university power plants;
- Sierra Club and Iowa Environmental Council;
- Iowa Association of Business and Industry;
- Iowa Department of Economic Development;
- U.S. EPA Region VII; and
- DNR's Air Quality and Energy Bureaus.

The workgroup met five times between May and August, 2005. All workgroup invitees, even those that elected not to participate in meetings, remained on the Department's e-mail distribution list, and were kept informed of the workgroup's activities and meeting dates.

The majority of the workgroup members recommended that the Department adopt EPA's cap and trade program for regulating NO_x and SO₂ emissions from EGUs. The Iowa Sierra Club did not endorse the cap and trade recommendation, stating that it does not support a cap and trade approach to emissions reductions.

Under the cap and trade approach for CAIR, EPA allocates emissions allowance budgets to the state for NO_x emissions. CAIR SO₂ allowances are allocated by EPA to affected EGUs from the current allowances under the existing Acid Rain program. The state is responsible for allocating the initial NO_x allowances to CAIR-affected facilities. Each allowance is equal to one ton of emissions. Upon initial allocation of NO_x and SO₂ allowances, EGUs can then trade them through an EPA-managed trading program. Market forces determine the trade currency (allowance) values. At the end of each year, each affected EGU must hold one allowance for each ton of SO₂ or NO_x emitted.

Adopting the cap and trade approach to CAIR offers several advantages. The affected facilities (EGUs) are allowed the flexibility to determine the most appropriate method of compliance for their company by securing allowances, reducing emissions, or instituting some combination these approaches. The affected EGUs must still comply with CAIR's requirements for continuous emissions monitoring for NO_x and SO₂.

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¶ At the same time that EPA promulgated CAIR, EPA also promulgated the Clean Air Mercury Rule (CAMR) to reduce mercury emissions from coal-fired electric utilities. CAMR is closely related to CAIR because it relies on the CAIR provisions for some of its mercury reductions, and also promotes an emissions cap and trade program. ... [1]

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The EPA-managed trading program also establishes automatic and punitive penalties to facilities that do not hold the required number of allowances at the end of each year. Further, states that adopt EPA's cap and trade rules to implement CAIR are afforded "automatic approval" of the required revisions to their state implementation plans (SIPs). Iowa has until September 2006 to adopt CAIR, and submit the revisions for incorporation into Iowa's SIP.

After carefully reviewing the CAIR provisions, and considering the recommendations from all workgroup members, the Department is proposing to adopt EPA's cap and trade program for implementing CAIR. This approach is the appropriate method for meeting the federal requirements for reducing cumulative, regional emissions of NO_x and SO₂, and will meet EPA's goals for reducing interstate transport of these pollutants.

These proposed rules to implement CAIR will amend a number of the air quality rules. The federal CAIR rules established some new requirements for emissions inventories, which the Department is proposing to adopt in Chapter 21. The federal CAIR rules also amended several of the Acid Rain program definitions. The Department is proposing amend the state Acid Rain rules in Chapter 22 to adopt the federal definitions by reference, while retaining the definitions specific to Iowa's Acid Rain program.

Additionally, the Department is proposing a new Chapter 34 that will contain the emissions trading provisions for CAIR. It is expected that EPA will promulgate other regulations in the future that will use the cap and trade approach similar to CAIR for reducing air pollutant emissions. The creation of Chapter 34 for air emissions trading will facilitate having all of these similar provisions in one location in the air quality rules.

The Department is simultaneously proposing a separate, similar rulemaking to implement the Clean Air Mercury Rule (CAMR). CAIR and CAMR are closely related because both allow primary implementation through an EPA-administered emissions cap and trade programs. However, the Department plans to keep the CAIR and CAMR proposals separate in case one of the rulemakings is delayed or terminated.

If the Environmental Protection Commission approves this Notice of Intended Action, the Department will hold two public hearing. One hearing will be held on Tuesday, February 21, 2006, at 1 PM, at Kirkwood Community College in Cedar Rapids. A second hearing will be held on Wednesday, February 22 at 1 PM at the department's Air Quality Bureau offices. The public comment period on the proposed rules will close on Monday, February 27.

Motion was made by Henry Marquard to approve the NOIA – CAIR as presented. Seconded by Donna Buell. Motion carried unanimously.

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APPROVED AS PRESENTED

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UPDATE ON FISH TISSUE MONITORING FOR MERCURY IN IOWA

John Olson, Environmental Specialist Sr. in the Water Monitoring & Assessment Section presented following item.

Iowa DNR has conducted annual fish contaminant monitoring since 1980 as part of the U.S. EPA Region 7 “Regional Ambient Fish Tissue” (RAFT) monitoring program.

Approximately 35 samples from 20 sites are sampled per year on Iowa’s rivers and lakes by IDNR fisheries biologists, with composite samples of fillets from both predator fish (e.g., largemouth bass) and bottom-feeding (e.g., common carp) fish being collected at most sites. Most sample sites change from year to year and are targeted toward heavily-fished water.

The purpose of this monitoring is to identify waters with fish having levels of contaminants that present a potential health risk to human consumers. Composite samples of whole-fish common carp are collected at several sites for the purpose of determining long-term trends in contaminant levels.

Tissue samples are analyzed by U.S. EPA Region 7, at no cost to the state, for 27 parameters, including pesticides, metals (including mercury), and toxic organic compounds (e.g., PCBs). RAFT monitoring has shown (1) declining trends in levels of banned pesticides and toxic organic compounds (e.g., PCBs) and (2) relatively constant but generally low levels of mercury.

The results from RAFT monitoring are used by Iowa DNR to justify issuing consumption advisories that warn Iowans about the presence of elevated contaminant levels and potential health risks.

Mercury in Iowa fish:

Detectable levels of methylmercury = “mercury” for this summary) are present in nearly all fish tissue samples; this trend applies worldwide. The following table summarizes the results of Iowa’s fish tissue analyses for mercury from 1977 through 2004.

Number of samples analyzed (3 to 5 fish per sample)	700
Average level (ppm)	0.10
Median level (ppm)	0.07
Number of samples exceeded 0.2 ppm	64 (9.1%)
Number of samples exceeding 0.3 ppm	26 (3.7%)
Maximum levels (ppm)	7.0 (1980); 0.61 (1977)

As shown above, levels of mercury in Iowa fish are typically low. The highest recorded levels occurred over 20 years ago; over the last five years, the highest level recorded was 0.48 ppm in a sample of smallmouth bass from a northeastern Iowa river.

Historically, IDNR has used the U.S. Food and Drug Administration's action level for mercury of 1.0 ppm to establish consumption advisories. Because of levels of mercury in Iowa fish seldom approach even one-half of the FDA level, Iowa has not had fish consumption advisories due to mercury.

In fall 2004, Iowa DNR – in response to increasing concerns with potential adverse health effects of mercury – issued consumption advice to populations especially sensitive to the potential adverse effects of mercury. This advice warns women of child-bearing age and children younger than 13 to eat only one meal per week of locally-caught predator fish (e.g. bass and walleye) that tend to have higher levels of mercury than bottom-feeding fish. This advice includes references to consumption guidance from the Iowa Dept. of Public Health, U.S. EPA and U.S. FDA.

In cooperation with the Iowa Department of Public Health, Iowa DNR will adopt a new advisory protocol in 2006 that will provide improved consumption advice to the public regarding contaminants. Adoption of this protocol is likely to result in issuance of several new consumption advisories for mercury and for PCBs.

Proposed (Iowa Dept. of Public Health and Iowa DNR) fish consumption advisory protocol for Iowa to become effective in 2006	
Mercury	
0 to 0.2 ppm	Unrestricted consumption
>0.2 to >1.0 ppm	One meal per week
>1.0 ppm	Do not eat
PCBs	
0 to 0.2 ppm	Unrestricted consumption
>0.2 to <2.0 ppm	One meal per week
2.0 ppm and over	Do not eat

The newly-proposed protocol for Iowa is risk based, is designed to be more protective of human health, and is more consistent with protocols of adjacent states. Because the trigger level is being lowered from 1.0 to 0.2 ppm, adoption of the new protocol is likely to result in issuance of several new consumption advisories in Iowa for mercury and for PCBs.

Looking for mercury “hot-spots”:

The RAFT program in Iowa and other EPA Region 7 states has not included monitoring for mercury hot-spots such as might occur in the vicinity of coal-fired power plants. Iowa DNR and Iowa Department of Public Health, however, are currently working with EPA Region 7 and the other Region 7 states to update the design of the RAFT program to enrich program capacity and flexibility to better assess contaminant levels in fish from all types of surface waters. These enhancements will improve Iowa's ability to investigate specific contaminant problems, such as the potential for elevated levels of mercury in fish from waters potentially influenced by the discharge plume from coal-fired power plants.

In addition, the DNR Air quality Bureau has offered to assist in identification of water bodies potentially under the direct influence of coal-fired power plants in Iowa. Monitoring of contaminants in fish from these water bodies will help determine the influence of Iowa's coal-fired power plants on levels of mercury in Iowa fish.

Risks versus benefits:

One of the major, nationwide, issues involving contaminants is the ability of fish consumption advisories to balance (1) the risks of human health for the contaminants with (2) the benefits to human health from consuming fish. Research has shown that fish are an excellent source of protein, and that some species contain the omega-3 fatty acids that are beneficial to human health. Adding to the controversy and confusion are challenges to the science used by EPA to identify levels of mercury in fish that present a potential adverse health risk (Note: EPA has recommended that state adopt a tissue-based criterion for mercury (0.3 ppm) in their water quality standards). An unfortunate and unintended results of the state consumption advisories is to overstate the health risks of contaminants and/or generate sufficient confusion such that consumers are scared away from consuming any fish and, potentially, from the activity of fishing as well.

INFORMATIONAL ONLY

NOTICE OF INTENDED ACTION: AIR QUALITY PROGRAM RULES CHAPTERS 22, 23, 25 AND NEW CHAPTER 34: ADOPTION OF THE FEDERAL CLEAN AIR MERCURY RULE (CAMR).

Christine Paulson, Environmental Specialist Senior in the Program Development Section presented the following item.

The Department is requesting permission of the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 22, "Controlling Pollution," Chapter 23, "Emission Standards for Contaminants," Chapter 25, "Measurement of Emissions," and add new Chapter 34, "Provisions for Air Quality Emissions Trading Programs," of the 567 Iowa Administrative Code.

The purpose of the proposed rule changes is to adopt the federal Clean Air Mercury Rule (CAMR) into the state air quality rules. The proposed rules will also make necessary updates and changes to existing air quality rules to implement CAMR.

This item was presented to the Commission last month in an information item. The Department made one substantive change from the information item to address some of the questions and concerns raised at the November meeting. This change is described in further detail below. The

Department also made some minor changes to this brief, and to the proposed rule preamble, to better describe the proposed rule changes.

On May 18, 2005, the U.S. Environmental Protection Agency (EPA) promulgated CAMR. This rule will permanently cap and reduce the nationwide level of mercury emissions from coal-fired power plants, the largest remaining sources of mercury emissions in the country. EPA estimates that, when fully implemented, CAMR will reduce utility mercury emissions in 48 states to 15 tons annually, a reduction of 70 percent from 2002 levels.

Mercury is a toxic, persistent pollutant that accumulates in the food chain. Atmospheric mercury falls to Earth through rain, snow and dry deposition and enters lakes and rivers. Once there, it can transform into methylmercury, and can build up in fish tissue. Women of childbearing age are regarded as the population of greatest concern from eating contaminated fish. Children exposed to methylmercury before birth may be at risk for neurobehavioral problems.

EPA's analyses conclude that regional transport of mercury emissions from power plants in the U.S. account for very little of the mercury deposition in U.S. waters. About 99 percent of global mercury emissions come from various natural sources throughout the world, and human-caused sources, primarily coal-fired power plants from outside of the U.S. The small contribution of mercury deposition from U.S. power plants will be significantly reduced when CAMR is fully implemented.

CAMR builds upon another closely related federal rule, the Clean Air Interstate Rule (CAIR). The first phase of CAMR, set to occur in 2010, is a nationwide, 38 ton cap on mercury, which EPA states will be achieved by the "co-benefit" reductions of reducing SO₂ and NO_x under CAIR. That is, control technologies expected to be used to comply with CAIR, primarily flue gas desulphurization (FGD) for SO₂ control, and selective catalytic reduction (SCR) for NO_x control, will also control mercury emissions, and will achieve the first phase cap.

The second phase of CAMR is a nationwide, 15 ton cap on mercury emissions, which will occur in 2018. This is based on the expectation that emerging control technologies for mercury, such as Activated Carbon Injection (ACI), will become proven, cost-effective and deployable on a large scale.

CAMR also includes a new source performance standard for coal fired electric generating units (EGUs) constructed after January 30, 2004. These new sources will need to meet a stringent emission standard for mercury, as well as conduct emissions testing and continuous emissions monitoring for mercury.

Under CAMR, each state is provided with an annual emissions cap for mercury. States must meet the required targets by either 1) Adopting EPA's "model" rules that will require affected coal-fired electric generating units (EGUs) to participate in an EPA-administered interstate cap and trade program, or 2) Mandate source by source controls in such a way as to stay under the EPA-prescribed mercury cap.

In May, 2005, the Department convened a workgroup to assist with rulemaking activities related to the adoption CAMR. The workgroup's goal was to provide rulemaking recommendations on implementation options of the federal rules. The Department invited the following parties to participate in the workgroup:

- Investor owned, municipal and rural electric cooperative utilities;
- Iowa Association of Municipal Utilities and Iowa Utilities Association;
- Iowa Utilities Board and Consumer Advocates Office;
- Iowa's university power plants;
- Sierra Club and Iowa Environmental Council;
- Iowa Association of Business and Industry;
- Iowa Department of Economic Development;
- U.S. EPA Region VII; and
- DNR's Air Quality and Energy Bureaus.

The workgroup met five times between May and August, 2005. All workgroup invitees, even those that elected not to participate in meetings, remained on the Department's e-mail distribution list, and were kept informed of the workgroup's activities and meeting dates.

The majority of the workgroup members recommended that the Department adopt EPA's cap and trade program for regulating mercury emissions from coal-fired EGUs. The Iowa Sierra Club did not endorse the cap and trade recommendation, stating that it does not support a cap and trade approach to emissions reductions, particularly for control of mercury emissions.

Under an emissions trading approach to CAMR, each ounce of mercury emitted annually from an affected facility (EGU) will require that the affected facility use one mercury allowance. The mercury allowances are traded on an EPA-administered open market, which will establish the trade currency (allowance) value.

Adopting the cap and trade approach to CAMR offers several advantages. The affected facilities are allowed the flexibility to determine the most appropriate method of compliance for their company by securing allowances, reducing emissions, or instituting some combination these approaches. The affected EGUs must still comply with CAMR's requirements for continuous emissions monitoring for mercury.

The EPA-managed trading program also establishes automatic and punitive penalties to facilities that do not hold the required number of allowances at the end of each year. Further, states that adopt EPA's cap and trade rules to implement CAMR are afforded "automatic approval" of the required revisions to their state implementation plans (SIPs). Iowa has until November 2006 to adopt CAMR, and submit the revisions for incorporation into Iowa's SIP.

After carefully reviewing the CAMR provisions, and considering the recommendations from all workgroup members, the Department is proposing to adopt EPA's cap and trade program for implementing CAMR. This approach is the appropriate method for meeting the federal requirements for reducing cumulative, national emissions of mercury from coal-fired EGUs.

However, the Department is also responding to the Commission's concerns, raised at the November Commission meeting, that the CAMR cap and trade provisions could allow adverse, local impacts resulting from mercury emissions from specific sources. To address this concern, the Department is proposing to amend subrule 22.3(5). This subrule contains the conditions under which the Director may, after public notice, modify an existing construction permit for a major stationary source. The proposed amendment will state that the Director may modify permits to major stationary sources to mitigate excessive mercury deposition.

In addition to the proposed amendment to Chapter 22, the proposed rules to adopt CAMR will amend a number of other air quality rules. CAMR amended the federal new source performance standards in 40 CFR Parts 60 for electric utility steam generating units. The Department proposes to adopt these changes in Chapter 23. CAMR also amended emissions testing methods under 40 CFR Parts 60 and 75. The Department proposes to amend Chapters 25 to adopt these changes.

Additionally, the Department is proposing a new Chapter 34 that will contain the emissions trading provisions for CAMR. It is expected that EPA will promulgate other regulations in the future that will use the cap and trade approach similar to CAMR for reducing air pollutant emissions. The creation of Chapter 34 for air emissions trading will facilitate having all of these similar provisions in one location in the air quality rules.

The Department is simultaneously proposing a separate, similar rulemaking to implement the Clean Air Interstate Rule (CAIR). CAMR and CAIR are closely related because both allow primary implementation through an EPA-administered emissions cap and trade programs. However, the Department plans to keep the CAMR and CAIR proposals separate in case one of the rulemakings is delayed or terminated.

If the Environmental Protection Commission approves this Notice of Intended Action, the Department will hold two public hearings. The first hearing will be held on Tuesday, February 21, 2006, at 1 PM, at Kirkwood Community College in Cedar Rapids. A second hearing will be held on Wednesday, February 22 at 1 PM at the department's Air Quality Bureau offices. The public comment period on the proposed rules will close on Monday, February 27.

Francis Thicke asked the staff to let the commission know when they find out more about deposition patterns.

Chad Daniel agreed.

Motion was made by Henry Marquard to approve the NOIA – Ch. 23,25 and 34 as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

REFERRALS TO THE ATTORNEY GENERAL

Ed Tormey, Chief of the Legal Services Bureau presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- Kruse Dairy Farm, Inc. (Delaware County) – Animal Feeding Operations and Wastewater

Kruse Dairy Farm, INC owns and operated a 330 head confinement dairy cattle operation and a 550 head confinement swine operation (696 combined animal units), both located in Section 32 of Delaware County. A formed manure storage structure, 130 feet by 120 feet by 12 feet deep, is utilized for manure storage.

In August, 2004, DNR Field Office 1 staff investigated a complaint of dead fish in Bear Creek. Dead fish were observed at four locations on Bear Creek. By collecting samples from Bear Creek and its tributaries and analyzing for ammonia concentration using field test kits, FO1 staff traced the source of the ammonia contamination to the vicinity of the Kruse Dairy. FO1 staff asked Martin Kruse if manure had been released from his operation. Mr. Kruse responded that he had drained “clean water” from the formed manure storage structure through a drain hole in the structure and that it was piped directly to the Bear Creek tributary.

Mr. Kruse did not have a MMP and he should have had one in place based on the size of his operation.

The manure storage structure building was built in 2002, it is about 30 feet from the tributary. At that time, it should have been at 200 feet from the tributary.

In September, Field Office staff directed him to plug or remove all discharge from the formed manure storage structure and to submit an MMP within 45 days. The DNR did receive his MMP in October.

On August 22, 2005, FO1 staff investigated another complaint of dead fish in the same area of Bear Creek. Again, by samples from Bear Creek and its tributaries and field analyses for ammonia, the source of the ammonia was traced to the Kruse Dairy Farm.

Referral to the Attorney General's office is requested to obtain injunctive relief and civil penalties for manure control, manure discharge plan violations at its swine and dairy cattle confinement operation in Delaware County.

Motion was made by Donna Buell to refer Kruse Dairy Farm to the Attorney General. Seconded by Francis Thicke. Motion carried unanimously.

Darrell Hanson abstained from voting.

REFERRED

PROPOSED CONTESTED CASE DECISIONS

Edmund J. Tormey, Chief of the Legal Services Bureau presented the following item.

REGINALD PARCEL

On March 4, 2005, the department issued Administrative Order Nos. 2005-AQ-03 and 2005-SW-04 to Reginald Parcel. The order required Mr. Parcel to cease the open burning of solid waste and to properly dispose of all solid waste at his property and to pay a penalty of \$1,000.00. That action was appealed, and a hearing on this matter was held on November 9, 2005. Mr. Parcel failed to appear for the hearing.

A Proposed Decision was issued on November 17, 2005. The Proposed Decision affirmed Administrative Order Nos. 2005-AQ-03 and 2005-SW-04, including the assessment of an administrative penalty in the amount of \$1,000.00.

EISCHEID FARMS INC.

On June 4, 2004, the department issued Administrative Order No. 2004-AFO-53 to Eischeid Farms Inc. The order required the payment of a \$3,000.00 penalty for failure to submit a manure management plan. That action was appealed, and a hearing on this matter was held on October 17, 2005.

A Proposed Decision was issued on October 24, 2005. The Proposed Decision affirmed Administrative Order No. 2004-AFO-53, including the assessment of an administrative penalty in the amount of \$3,000.00.

IVAN KENNEY

On February 2, 2005, the department issued Administrative Order No. 2005-AFO-02 to Ivan Kenney. The order required Mr. Kenney to pay a penalty of \$3,000.00 for failure to submit a manure management plan. That action was appealed, and a hearing on this matter was held on October 24, 2005.

A Proposed Decision was issued on November 4, 2005. The Proposed Decision affirmed Administrative Order No. 2005-AFO-02, including the assessment of an administrative penalty in the amount of \$3,000.00.

There have been no appeals of these Proposed Decisions. In the absence of an appeal the Commission may decide on its own motion to review these Proposed Decisions. If there is no review of these Proposed Decisions, they automatically become final decisions of the agency.

NO ACTION TAKEN

PROPOSED RULE – AMEND IAC 567 CHAPTER 105 – “ORGANIC MATERIALS COMPOSTING FACILITIES

Ken Bouma, Environmental Specialist of the Energy & Waste Management Bureau presented the following item.

This proposed rule revision is needed to address the increased use and awareness of livestock mortality composting by farmers as a management option. The proposed rule revision is needed to address the increased use of composting by Iowa farmers as a means to manage dead livestock. This revision will add flexibility for farmers wanting to compost routine livestock mortalities from multiple sites at a centralized site, as well as aid compliance with the rules. Also, there are other minor changes and corrections needed to update the chapter.

Composting methods to manage normal livestock mortalities are becoming more common. In the past year several variance applications have come into the Energy & Waste Management Bureau from farmers wishing to compost deads from multiple sites at one, centrally located facility. Such an activity requires a permit under the current rules.

The proposed revisions will eliminate the need for a permit to operate a centralized compost facility that is owned, operated, and serviced by a single farmer. Also, the revisions will provide well-defined operating parameters and allow Department compliance staff to more clearly enforce rule requirements for mortality composting.

Other proposed changes include updating appropriate sections to conform to the new 105.6, correcting for proper form number references, and making the Chapter more consistent with existing DNR policy.

The Commission is asked to approve this Notice of Intended Action next month.

INFORMATIONAL ONLY

IOWA'S 2004 IMPAIRED WATERS LIST

Comment [TXK2]: 12 pt Times New Roman, all caps, bold, center-left alignment

John Olson and Chris VanGorp presented the following item.

The Commission was presented with the IDNR's Final 2004 List of Impaired Waters at the May 16, 2005 EPC meeting. The IDNR submitted its final list to EPA on June 3, 2005 for approval. The final list submitted by Iowa included 209 waterbodies.

EPA's proposed list is available for public comment through December 19, 2005. The IDNR is reviewing the EPA decision document and preparing comments to be submitted to EPA. Following the public comment period, EPA will finalize Iowa's 2004 impaired waters list.

Context:

This is an informational item; the EPC is not required to approve Iowa's Section 303(d) list of impaired water. Iowa's lists of impaired waters are prepared every two years to meet requirements of Sections 305(b) and 303(d) of the federal Clean Water Act. Biennial lists of impaired waters are prepared by all states.

IDNR presented their final 2004 list to the EPC in May 2005; the list was sent to EPA for approval in late May. EPA reviewed IDNR's list from June to November. In their November 14, 2005 decision document, EPA approved IDNR's listing of 209 waterbodies, and EPA proposed adding-back 20 waterbodies to Iowa's 2004 list of impaired waters; 14 waterbodies were new to the list; 6 were restored to the list. EPA provided a 30-day public comment period for their proposed add-backs; this comment period closes on December 19, 2005. IDNR has prepared a letter responding to EPA's proposed add-back waters. EPA has the final say regarding what water are on Iowa's list. The EPA decision documents can be found on the web at http://www.epa.gov/region07/news_events/newsreleases/n111405.htm.

IDNR and EPA are, for the most part [~90%], in agreement on Iowa's 2004 impaired waters list, and this general agreement reflects the spirit of cooperation between IDNR and EPA Region 7.

Definition of "impaired":

"Impaired" means that an assessed waterbody does not fully support its classified beneficial uses as described in state water quality standards. Water quality impairment does not necessarily

equate to “grossly” or “severely” polluted. The majority of impairments in Iowa are of moderate magnitude.

The numbers of “impaired” waters in Iowa as of November 2005:

DNR’s final 2004 Integrated Report [305(b)/303(d)] Categories, as of Nov. 2005:	No. of Waterbodies	Notes
Category 1 (all uses supported)	225	
Category 2 (at least one use supported)	284	
Category 3 (no information to assess uses)	1115	92 waterbodies assessed as “potentially impaired”, remaining waters have no data.
Category 4 (impaired but TMDL not needed)	89	Waters in Category 4 are still impaired; some feel that any discussion of “impaired” waters should include both Categories 4 & 5. *
Category 5 (impaired & TMDL required)	209	Category 5 is, by EPA’s definition, the state’s section 303 (d) list of impaired waters.
Total number of waters assessed:	899	
*Number of waterbodies identified as “impaired” by Iowa DNR (prior to EPA’s proposed add-backs of Nov. 2005)	296	Sum of Categories 4 and 5 minus 2 waterbodies listed in both Categories 4 and 5.
Proposed number of EPA add-backs (November 14, 2005)	19	Does not include Windmill Lake which was already on DNR’s 2004 list.
*Potential number of waterbodies on Iowa’s 2004 Section 303(d) list (Category 5: waters needing a TMDL)	228	The final 2004 “Section 303(d) list”; includes (1) DNR’s 209 Category 5 waters and (2) EPA’s 19 proposed add-back waters.
*Potential number of “impaired waters”: includes Categories 4 and 5 and EPA’s add-backs:	315	Includes DNR’s categories 4 and 5 waters plus EPA’s proposed 19 add-back waters.

Summary of DNR’s Category 4 (waterbody impaired but TMDL not required) of the 2004 Integrated Report.

Category	Description of Category	No. of Waterbodies
4a	All TMDLs need to result in attainment of all applicable water quality standards have been approved or established by EPA	26
4b	Other required control measures are expected to result in the attainment of water quality standards in a reasonable period of time	1
4c	The impairment of threat is not caused by a pollutant	25
4d	Waterbody assessed as “impaired” due to a fish kill where enforcement action was taken to address the source of the kill: no TMDL required	37
TOTAL NUMBER OF WATERBODIES:		89

Reason why EPA wants to added-back waters to Iowa's list:

EPA saw waterbodies which they felt should be added to Iowa's list:

- Waterbodies with old (>5 years) biological data suggesting impairment (Note: EPA is not constrained by Iowa's "credible data law") (4).
- Waterbodies with recent (2000-2002) biological data suggesting impairments that should be added to Iowa's list (13)
- Waterbodies with new (post-2002) data suggesting impairment (1)
- Waterbodies placed in inappropriate categories of Iowa's Integrated Report (2)

IDNR's response to EPA's proposed add-backs:

- 1. DNR agrees that some of the proposed add-backs should be included on the 2004 list.**
 - Issue of using more recent data than that considered for the 2004 list (1 waterbody)
 - Changes are needed in Iowa's methodology regarding identifying impairments based on biological data (i.e., 3 waterbodies)
- 2. DNR is willing to accept, despite lack of complete agreement, EPA's proposed add-backs for three waterbodies (Mississippi River @ Clinton, North River & West Tarkio Creek)**
- 3. DNR disagrees with the proposed add-back waters in the following categories; these add-backs are not consistent with DNR's assessment and listing methodology:**
 - Issue of data being too old to represent current water quality conditions (3 waterbodies)
 - Use of biological data not collected according to IDNR protocols (Fisheries data) (5 waterbodies)
 - Inappropriate application of data from DNR biological assessments (general use-only streams and non-wadeable streams/rivers) (3 waterbodies)
 - Misinterpretation of DNR's assessments ["fair"] (1 waterbody)

Next Steps:

- DNR will finalize and transmit its comment letter to EPA Region 7 on December 19th.
- Region 7 will consider all comments received during the November 14 – December 19 public comment period and provide DNR with its final 2004 list of impaired waters.

Donna Buell said that the number of impaired waters is misleading to the public. Maybe even report on a percentage basis.

John Olson said that the monitoring and testing is not random but targeted.

Francis Thicke agreed with Donna that the numbers should be up front on how many streams and waterbodies are actually impaired.

David Petty raised the question, "Is my land jumping into the state's water or is the state's water pulling my land away and polluting the water?" Who's at fault?

Jeff Vonk said that it depends on how the land is being managed upstream and around it. The quantity of water that reaches a stream is a reflection of how well the land is managed.

Donna Buell asked that we consider existing uses for streams and other waterbodies.

Chuck Corel said that we will hopefully be able to consider existing uses rather than just designated uses in the future.

INFORMATIONAL ONLY

MONTHLY REPORTS

Wayne Gieselman, Division Administrator of the Environmental Protection Division presented the following items.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
December, 2005

Proposal	Notice to Commission	Notice Published	ARC#	Rules Review Committee	Hearing	Comment Period	Final Summary to Commission	Rules Adopted	Rules Published	ARC #	Rules Review Committee	Rule Effective
1. Ch 20, 22 – Air Construction Permitting Exemptions	10/17/05	11/09/05	4651B	12/13/05	12/12/05	12/14/05	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06
2. Ch. 20, 21 and 34 – Adoption of Federal Clean Air Interstate Rule (CAIR)	12/19/05	*1/18/06		*2/07/06	*2/27/06	*2/21,22/06	*3/20/06	*3/20/06	*4/12/06		*5/09/06	*5/17/06

3. Ch. 23, 25 and 34 – Adoption of Federal Clean Air Mercury Rule (CAMR)	12/19/05	*1/18/06		*2/07/06	*2/27/06	*2/21,22/06	*3/20/06	*3/20/06	*4/12/06		*5/09/06	*5/17/06
4. Ch 40, 44, 90, 91, 92, 93 – Revisions to State Revolving Fund Rules	11/21/05	*12/21/05		*1/10/06	*1/11/06	*1/11/06	*2/13/06	*2/13/06	*3/15/06		*4/04/06	*5/19/06
5. Ch. 61 – WQ Standards: Warm Weather Stream Use Designation Assessment Protocol	8/15/05	9/14/05	4504B	10/11/05	10/05, 10, 12, 14/05	10/28/05	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06
6. Ch. 61 – WQ Standards: Protected Flow, General Use Classification Changes and the Rebuttable Presumption Approach	8/15/05	9/14/05	4505B	10/11/05	10/05, 10, 12, 14/05	10/28/05	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06
7. Ch. 64 – Fee Collection for Wastewater Permits	10/17/05	11/09/05	4652B	12/13/05	11/29, 30/05 12/01/05	12/02/05	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06
8. Ch. 65 – Technical Corrections and Additions to Table 1 – Major Water Sources	10/17/05	11/09/05	4649B	12/13/05	12/01/05	12/01/05	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06
9. Ch. 65 – Open Feedlot Regulations	8/15/05	9/14/05	4506B	10/11/05	10/04, 05, 06, 07/05	10/14/05	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06
9. Ch 65 – Designated Wetlands	11/21/05	*12/21/05		*1/10/06		*2/01/06	*2/13/06	*2/13/06	*3/15/06		*4/04/06	*5/19/06
10. Ch. 65 – Evaluation, Denial of or Condition of Construction Permits or Modification of MMPs for Confinement Operations	12/19/05	*1/18/06		*2/07/06	*2/07/06	*2/07/06	*3/20/06	*3/20/06	*4/12/06		*5/09/06	*5/17/06
11. Ch. 65 – Evaluation, Denial of or Condition of Construction Permits or Modification of MMPs for Confinement Operations							*12/19/05	*12/19/05	*1/18/06		*2/07/06	*12/30/05
12. Ch. 101 – Solid Waste Comprehensive Planning	10/17/05	11/09/05	4650B	12/13/05	12/02/06	12/02/06	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06

Requirement s												
13. Ch. 135 – Technical Standards and Corrective Action Requirement s for Owners and Operators of USTs	4/18/05	5/11/05	4164B	6/14/05	5/31/05 6/1, 2/05	6/10/05	*1/17/06	*1/17/06	2/15/06		*3/14/06	*4/18/06
14. Ch. 135 – Technical Standards and Corrective Action Requirement s for Owners and Operators of USTs; Ch. 134 – Certification of Groundwater Professional s	10/17/05	11/09/05	4653B	12/13/05	11/29, 30/05 12/02/05	12/02/05	*1/17/06	*1/17/06	*2/15/06		*3/14/06	*4/18/06
15. Ch. 144 – Household Hazardous Materials	12/19/05	*1/18/06		*2/07/06	*2/08/06	*2/08/06	*3/20/06	*3/20/06	*4/12/06		*5/09/06	*5/17/06
16. Ch. 211 – Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste from Conditionally Exempt Small Quantity Generators; Ch. 123 – Regional Collection Centers and Mobile Unit Collection and Consolidated Center	10/17/05	11/09/05	4648B	12/13/05	12/05/05	12/12/05	*1/17/05	*1/17/05	*2/15/06		*3/14/06	*4/16/06

Iowa Department of Natural Resources
Environmental Services Division
Report of Hazardous Conditions

During the period November 1, 2005, through November 28, 2005, 49 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Month	Total Incidents	Substance			Mode					
		Agri-chemical	Petroleum Products	Other Chemicals	Transport	Fixed Facility	Pipeline	Railroad	Fire	Other*
October	48 (52)	6 (2)	29 (29)	13 (21)	13 (17)	28 (27)	0 (2)	2 (2)	1 (0)	4 (4)
November	49 (64)	9 (13)	32 (31)	8 (19)	15 (21)	25 (30)	0 (1)	2 (2)	1 (0)	6 (10)
December	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	97 (116)	15 (15)	61 (60)	21 (40)	28 (38)	53 (57)	0 (3)	4 (4)	2 (0)	10 (14)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period.

*Other includes dumping, theft, vandalism and unknown

1	2	3	4	5	6
7	7	6	4	15	10

Iowa Department of Natural Resources
Environmental Services Division
Report of Manure Releases

During the period November 1, 2005, through November 28, 2005, 7 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total Incidents	Feedlot	Confinement	Land Application	Transport	Hog	Cattle	Fowl	Other	Surface Water Impacts
October	13 (15)	1 (0)	2 (6)	1 (6)	9 (3)	12 (13)	1 (2)	0 (0)	0 (0)	1 (2)
November	7 (9)	0 (2)	1 (4)	2 (1)	4 (2)	5 (6)	2 (2)	0 (0)	0 (1)	1 (1)
December	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	20 (24)	1 (2)	3 (10)	3 (7)	13 (5)	17 (19)	3 (4)	0 (0)	0 (1)	2 (3)

(numbers in parentheses for the same period last year)

Total Number of Incidents Per Field Office This Period.

1	2	3	4	5	6
2	1	4	0	0	0

DATE: December 1, 2005**TO:** EPC**FROM:** Ed Tormey**RE:** Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Taylor Oil Co., Inc., UST 8710665 Missouri Valley (4)	Underground Tank	UST System Deficiencies	Consent Order \$2,300	10/31/05
Taylor Oil Co., Inc., UST 198602385 Logan (4)	Underground Tank	UST System Deficiencies	Consent Order \$1,500	10/31/05
Hull, City of (3)	Wastewater Drinking Water	Operation Violations; Operation Without Permit	Consent Order \$10,000	11/10/05
Coin, City of (4)	Wastewater	Compliance Schedule; Discharge Limits; Operational Violations	Consent Order	11/18/05
David Peterson, Lake Mills (2)	Animal Feeding Operation	Application in Excess of Crop Usage Rate; Prohibited Discharge – Confinement; Failure to Report a Release; WQ Violations – General Criteria	Referred to Attorney General	11/21/05
Mark Ehresman, Huxley (5)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Order \$2,500	11/29/05
Sparboe Agricultural Corp., Webster Co. (2)	Solid Waste	Illegal Disposal	Consent Order \$1,000	11/29/05
Fran Oil Company, Council Bluffs (3 sites) (4)	Underground Tank	Leak Detection; Site Check	Consent Amendment \$12,900	11/29/05
Don Hopp, Glenwood (4)	Solid Waste	Illegal Disposal	Consent Amendment \$500	11/29/05
Fertilizer Equipment Specialist, Garner (2)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Order \$1,000	11/30/05

**IOWA DEPARTMENT OF NATURAL RESOURCES
COMPLIANCE AND ENFORCEMENT BUREAU**

DATE: December 1, 2005

TO: Environmental Protection Commission

FROM: Ed Tormey

SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
R & R Ranch (Osceola)	WW	10,000	8-30-00
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
Donald and Marie Phillips (Milo)	WW	1,300	7-09-01
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
James Harter (Fairfield)	WW	1,800	8-01-01
# Troy DeGroote; Casey DeGroote (Butler Co.)	AFO/AQ/SW	633	3-08-02
# Practical Pig Corporation (Clinton Co.)	AFO	2,000	5-26-02
Midway Oil Co.; David Requet (Davenport)	UT	6,430	9-20-02
Wilbur McNear d/b/a McNear Oil Co. (Onawa)	UT	5,930	12-17-02
Jeff Reed d/b/a Reed's Service (Lenox)	UT	7,250	1-12-03
Allan Scott (Marion Co.)	SW/WW	1,150	1-15-03
Peter Cook (Grand Mound)	AQ/SW	500	2-10-03
* Winter Mobile Home Park (New Hampton)	WS	250	2-15-03
	UT	32,690	2-28-03
U.S. PETRO, INC.; SSJG PETROLEUM; SUKHDEV SINGH			
	UT	44,900	2-28-03
MIDWAY OIL CO.; DAVID REQUET; JOHN BLISS			
Duane Crees (Muscatine Co.)	AQ/SW	963	3-01-03
Nevada, City of SEP	WW	3,000	3-14-03
Midway Oil Company (West Branch)	UT	7,300	5-03-03
Midway Oil Company (Davenport)	UT	5,790	5-03-03
Efren Valdez (Warren Co.)	SW	3,000	6-09-03
Mobile World LC (Clinton Co.)	SW	2,250	6-29-03
Casey's General Stores, Inc. (Various Locations)	UT	15,000	8-01-03
Casey's General Stores, Inc. (4 Locations)	UT	4,500	8-01-03
McMahon's Bar & Ballroom (Andover)	WS	500	8-08-03
* Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	133	12-15-03
Robert L. Nelson (Orient)	UT	2,450	12-26-03
Mark Anderson (Des Moines Co.)	AQ/SW	10,000	3-22-04
Mike Phillips aka Jeff Phillips (Cambridge)	AQ	5,000	3-27-04

Environmental Protection Commission Minutes

December 2005

# James Hoogland (Sioux Co.)	AFO	2,000	4-11-04
Interchange Service Co., Inc., et.al.	WW	6,000	5-07-04
(Onawa)			
R. Victor Hanks; Mobile World L.C.	WW	10,000	5-23-04
(Camanche)			
#*Floyd Kroeze (Butler Co.)	AFO	1,500	6-01-04
Iowa Falls Evangelical Free Church (Iowa Falls)	WS	750	6-13-04
# Dunphy Poultry (Union Co.)	AFO	1,500	6-27-04
Midway Water & Lighting Co., Inc. (Marion)	WS	5,000	7-02-04
Shane Preder (Ft. Madison)	AQ	1,000	7-12-04
James L. Heal d/b/a A-1 Domestics (Homestead)	SW/WW	1,800	7-16-04
* Piper Motor Co.; Bruce Piper d/b/a Super Clean Car Wash	WW	2,875	9-01-04
Ranch Supper Club (Swisher)	WS	2,300	8-02-04
Ossian Agri Center, Inc. (Ossian)	WW/HC	2,000	8-02-04
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000	8-03-04
#*James Boller (Kalona)	AFO	4,531	8-19-04
# Cash Brewer (Cherokee Co.)	AFO/SW	10,000	8-25-04
Spillway Supper Club (Harpers Ferry)	WS	1,500	9-06-04
David Niklasen (Shelby Co.)	SW	100	9-11-04
* Russell Barkema; K.R. Construction (Wright Co.)	AQ/SW	500	10-30-05
# Doorenbos Poultry; Scott Doorenbos (Sioux Co.)	AFO	1,500	10-09-04
T & T Corner Bar (McIntire)	WS	3,000	10-26-04
Rock N Row Adventures (Eldora)	WS	3,000	10-23-04
# Jason Fox (Audubon Co.)	AFO	1,000	11-27-04
# Norm Cleveringa (Lyon Co.)	AFO	750	11-27-04
Americana Bowl (Ft. Madison)	WS	100	11-28-04
Howard Traver, Jr. (Cass Co.)	SW	3,000	12-14-04
# Doug Sweeny (O'Brien Co.)	AFO	750	1-02-05
# Dean Pedersen (Pocahontas Co.)	AFO	450	1-19-05
Valley Country Café; NOO Investment Co. (Cass Co.)	WS	5,000	2-18-05
Denzel Edwards (Cass Co.)	AQ/SW/HC	500	3-01-05
Roquette America, Inc. (Keokuk)	WW	10,000	3-04-05
Russell Knobbe; Knobbe Bros.; Mello Knobbe (Carroll Co.)	AQ	1,000	3-07-05
# Mike Rausch; Justin Rausch (O'Brien Co.)	AFO	2,000	4-02-05
Virgil Ehlers; Ehlers Oil Co. (Soldier)	UT	8,040	4-23-05
ARC Communities 8 LLC; Sunrise MHP (Newton)	WW	2,000	4-23-05
Harold Linnaberry (Clinton Co.)	SW	1,000	5-18-05
#*Dennis VanDerWeide (Sioux Co.)	AFO	500	6-01-05
* Country Stores of Carroll, Ltd. (Carroll)	UT	1,658	6-06-05
* Elite, Ltd.; FS Energy Fuel 24, LLC; Roger Kanne	UT	538	6-06-05
Mehmert Tiling, Inc. (Cresco)	UT	10,000	6-10-05
* Dennis Gailey (Moorland)	AQ/SW	4,600	12-01-05
Elery Fry; Allen Fry; Mel Fry; Ron Fry (Moravia)	SW	10,000	6-20-05
# Scott Antisdal (Carroll Co.)	AFO	750	6-21-05
Fedler and Company; Tony Fedler (Mt. Pleasant)	HC	3,670	6-25-05

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# Steve Grettenberg (Webster Co.)	AFO	500	7-02-05
David Carlisle (Ringgold Co.)	SW	3,500	7-23-05
# Matt Hoffman (Plymouth Co.)	AFO	750	8-08-05
Dr. Ed Cook (Cherokee Co.)	AQ	2,000	8-11-05
* Country Terrace Mobile Home Park (Ames)	WW	2,570	11-01-05
# Rick Renken (Plymouth Co.)	AFO	750	11-03-05
* Crest Country Inn (Iowa Co.) No. 2	WW	1,000	11-15-05
#*Richard Beelner; Beelner 1 and 2 (Plymouth Co.)	AFO	1,900	11-19-05
# Sunray Pork, Ltd.; Tweedie Finisher Farm (Pocahontas Co.)	AFO	3,000	12-06-05
* Paul Shimp & S & V Fence Co. (Eldridge)	AQ	2,450	12-09-05
* Fran Oil Company (Council Bluffs)(3 Admin. Orders)	UT	12,900	12-09-05
* Roger Holland (Farmington)	WW	1,000	12-09-05
#*E & N Farms, Ltd. (Lyon Co.)	AFO	2,700	12-15-05
#*Gary R. Johnson (Allamakee Co.)	AFO	3,500	12-15-05
* Olsen Fuel Supply, Inc. (Atlantic)	UT	2,500	12-18-05
Vernon Kinsinger (Washington Co)	SW	5,930	12-31-05
* John Danker (Lee Co.)	AQ/SW	4,718	1-22-06
#*Paul Rehder (O'Brien Co.)	AFO	2,625	2-01-06
* Crestview Mobile Home Park (Ames)	WW	5,000	2-01-05
#*Dennis Kuehl (Cass Co.)	AFO	1,500	10-15-06
Environ. Egg Production; Iowa Ag	WW	5,000	-----
Excavating (Wright Co.)			
Green Valley Mobile Home Park (Mt. Pleasant)	WW	5,000	-----
# Joel McNeil (Kossuth Co.)	AFO	2,500	-----
# Chad Arnold (Hamilton Co.)	AFO	2,000	-----
Carl Cliburn (Wapello Co.)	AQ/SW	3,500	-----
Fertilizer Equipment Specialists, Inc. (Garner)	AQ/SW	1,000	-----
# Peter Westra (Sioux Co.)	AFO	3,000	-----

TOTAL 401,269

The following cases have been referred to the Attorney General:

Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96

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#*Harold Unternahrer (Washington Co.)	AFO	700	5-01-99
Hofer's Danceland Ballroom (Walford)	WS	3,200	4-19-97
Hofer's Danceland Ballroom (Walford)	WS	100	4-23-99
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	12-19-98
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800	3-06-99
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Jim Walker (Johnson Co.)	AQ/SW	3,000	2-14-99
Iowa Millenium Investors, LLC (Sumner)	UT	4,000	10-12-99
Daryl & Karen Hollingsworth d/b/a Medora Store (Indianola)	UT	10,000	
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000	1-23-00
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000	5-26-00
Lindahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
Wisconsin North dba National Petroleum, Inc. (Clinton)	UT	5,000	8-04-01
Wisconsin North dba National Petroleum (Clinton)	UT	2,840	8-21-01
Michael Bauer (Davenport)	UT	5,100	3-13-01
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	4,500	8-01-01
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000	9-18-01
Marvin Oberly (Burlington)	WW	1,300	6-27-01
Richard Davis (Monroe Co.)	AQ	8,000	6-25-02
M-F Real Estate; Fred "Butch" Levell (Carter Lake)	HC	3,200	8-18-02
Ryan Barton; Theresa Barton (Kellerton)	AQ/SW	1,000	5-27-02
Mobile World, L.C. (Camanche)	WW	2,000	5-27-02
Oran Pub & Grill (Fairbank)	WS	100	6-03-02
M.A., Inc.; Spring Grove Mobile Home Park (Burlington)	WW	7,000	11-01-02
M.A., Inc.; Westside Park for Mobile Homes (Lee Co.)	WW	7,000	11-01-02
John Jolin; Michael Kolbold (Sioux City)	UT	5,760	6-23-02
Dave Paplow (Indianola)	AQ/SW	5,000	7-05-02
Meadow Mist Motel (Fayette Co.)	WS	500	8-12-02
Park View Motel (Oelwein)	WS	750	9-06-02
Dale Schaffer (Union Co.)	AQ/SW	10,000	11-05-02
Mike Messerschmidt (Martinsburg)	AQ/SW	500	
Plantation Village Mobile Home Park (Burlington)	WS	500	6-06-03
Mark Buringrud fdba Carpenter Bar & Grill (Carpenter)	WS	2,500	10-26-01
Honey Creek Campground (Crescent)	WS	1,000	4-30-02
Albert Miller (Kalona)	AQ/SW	10,000	9-26-03
Plain Salvage Inc. (Sac City)	AQ/SW	10,000	5-12-00
Affordable Asbestos Removal, Inc.; Jeffry Intlekofer (Ft. Madison)	AQ	3,100	3-30-03
Mobile World LC (Camanche)	AQ/SW	10,000	5-30-04

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Emer Carlson (Fairfield)	AQ	6,500	6-01-04
# Trent Ellis (Calhoun Co.)	AQ/SW/AFO	3,000	3-23-04
The Universal Assembly of Christians;	AQ/SW	10,000	
Marsha Leigh			
Pat Kelly d/b/a Kelly Construction	UT	1,860	6-22-04
(Denison)			
Roger Ginger d/b/a L & L Standard (Everly)	UT	5,750	6-22-04
# Jim Dos (Black Hawk Co.)	AFO	3,000	5-04-05
# Travis Aldag (Ida Co.)	AFO	3,000	8-17-04
# David Kass (Plymouth Co.)	AFO	3,000	10-02-04
S.K. Food & Gas, Inc.; Diwan LLC	UT	7,300	
(Davenport)			
S.K. Food & Gas, Inc.; Diwan LLC	UT	6,000	
(Davenport)			
# Dean & Sharon Gettler (Montgomery Co.)	AFO	3,000	
TOTAL		255,230	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Dallas County Care Facility (Adel)	WW	2,500
Gerald and Judith Vens (Scott Co.)	FP	5,000
# Iowa Select Farms, L.P.; AG Waste Consultants	AFO	3,000
(Hamilton Co.)		
# Dan Witt (Clinton Co.)	AFO	3,000
Sir Fredericks, Inc.; Fred Scherle (Ankeny)	UT	2,280
Dallas County Care Facility (Adel)	WW	5,000
Robert Ward (Lee Co.)	WW	1,450
Partners Four Investments, Inc. (Marble Rock)	UT	5,280
Kevin Wallerich (Keota)	SW/WW	500
# Doug Wedemeyer (Adair Co.)	AFO	2,500
Mt. Pleasant, City of	WW	500
Charlotte Caves (Oskaloosa)	HC	10,000
# Kenneth Dahlhauser (Whittemore)	AFO	2,500
Stanley Siems (Hardin Co.)	AQ/SW	7,500
Schell Family Partnership (Boone Co.)	HC/SW	5,000
River City Development; Russell Hardy	UT	2,480
(Mason City)		
Chelsea, City of	WW	3,000
# Doug Osweiler (South English)	AFO	5,000
# Ray Slach (Cedar Co.)	AFO	3,000
# Iowa Select Farms, LP; Swartz Finisher Farm	AFO	500
(Hardin Co.)		
# Natural Pork Production, II LLC (Shelby Co.)	AFO	5,000
Roger Eblen; Eblen Develop.; Duane Menke;		
(Whispering Woods - Council Bluffs)	WW	10,000
# Iowa Select Farms, L.P.; Kerrigan Facility	AFO	1,000
(Union Co.)		
# D & D Ag Enterprises, LLC (Union Co.)	AFO	2,000
# Iowa Select Farms, Inc.; Clarke Sow	AFO	5,000
(Clarke/Union Co.)		
# Southern Waste Handling, Inc. (Mr. Ayr)	AFO	7,000

Country Living MHP (Altoona)	WW	5,000
Kent Kiburz (Humboldt Co.)	SW	2,500
Strawberry Point, City of	WW	10,000
Casey's Marketing Co. (Jefferson)	UT	5,224
Edward Rasch; Easter Enterprises, Inc.	UT	3,000
(Norwalk)		
B & H Food & Gas, Inc. (Davenport)	UT	10,000
U.S. Nation Mart, Inc. (Davenport)	UT	10,000
Tegh, Inc. (Bettendorf)	UT	8,500
# Jeff Holland (Winnebago Co.)	AFO	5,500
Pocahontas, City of	WW	5,000
# T. Patrick and Laurie Cashman (Deep River)	AFO	750
# Bob Kerrigan (Union Co.)	AFO	750
Carpenter Bar & Grill (Carpenter)	WS	10,000
# Swine USA; Davis Finishing Site (Clarke Co.)	AFO	750
# Gettler Dairy (Guthrie Co.)	AFO	5,000
Iowa Ethanol, LLC; Reilly Construction Co. (Worth Co.)	WW	10,000
Broin & Assoc., Inc.; Iowa Ethanol, LLC (Worth Co.)	WS/WW	10,000
Broin & Assoc., Inc.; Otter Creek Ethanol (Osceola Co.)	WW	10,000
# Tim Trostel (Butler Co.)	AFO	2,000
# James Axtell (Hardin Co.)	AFO	500
Iowa Falls, City of	WW	10,000
LeMars, City of	WW	9,000
Ben Haven Mobile Home Park (Quasqueton)	WS	3,000
Curt Kline; Connie Kline (Dunlap)	AQ	5,575
# Terry Nibbelink (Sioux Co.)	AFO	1,500
# Clark Partnership; Dennis & Terrence Clark (Osceola Co.)	AFO	1,500
Alton, City of	FP	5,000
Casey's Marketing Co. (5 locations)	UT	18,101
Maquoketa Shoreline Development; John Thola (Jackson Co.)	WW	10,000
# Jansma Cattle Co., Inc. (Lyon Co.)	AFO	10,000
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000
# Eischeid Farms (Carroll Co.)	AFO	3,000
# Randy Gergen; R & D Farms (Sioux Co.)	AFO	3,000
# John Hansen (Sioux Co.)	AFO	3,000
# Michael Veenstra; Allan Veenstra (Mahaska Co.)	AFO	5,000
# Robin Hewer (Clinton Co.)	AFO	3,000
Marvin Bates (Iowa Co.)	AQ/SW/WW	10,000
# James VerMeer (Sioux Co.)	AFO	3,000
# Dennis Rowenhorst (Sioux Co.)	AFO	3,000
F. J. Krob & Co. (Walker)	WW/HC	10,000
Bill Schrock (Stockport)	SW/WW	2,000
Iowa State University Heating Plant (Ames)	WW	1,500
# Dave Borchers (Plymouth Co.)	AFO	1,500
Fairwinds Corp.; Envirobate Mgmt. (Urbandale)	AQ	10,000
Gary Hart (Clinton)	AQ/SW	4,250
Rose Bartles (Glenwood)	AQ/SW	1,500
# Linn Grove Hatchery, Inc. (Buena Vista Co.)	AFO	3,000

Cedar Rapids, City of	WW	5,000
Goose Lake, City of	WS	1,000
# Monty Unkrich (Jefferson Co.)	AFO	3,000
# Mike Elsbernd (Winneshiek Co.)	AFO	3,000
Leland Heisdorffer (Keokuk Co.)	AQ/SW/WW	10,000
# Ted T. Smith (Buena Vista Co.)	AFO	3,000
James Brown; Brian Stickney (Oto)	AQ	3,500
# Keith Kruse (Clay Co.)	AFO	1,500
# Puck Custom Enterprises, Inc. (Shelby Co.)	AFO	800
# Natural Pork Production II, LLC (Shelby Co.)	AFO	300
# Greg Gerber (Lyon Co.)	AFO	3,000
# Jerry Vander Platts (O'Brien Co.)	AFO	3,000
# Matt Gehling (Carroll Co.)	AFO	1,500
Wayne Staab (Plymouth Co.)	AQ	1,000
S. J. Louis Construction, Inc. (Pleasant Hill)	WW	5,000
MKKS, LLC (Urbandale)	UT	4,600
MKKS, LLC (Windsor Heights)	UT	6,500
MKKS, LLC (West Des Moines)	UT	4,600
Monty Branstad (Winnebago Co.)	AQ/SW	8,000
Pleasant Hill, City of	WW	10,000
Lawler, City of	WW	3,000
# Rick Nikkel (Jasper Co.)	AFO	3,000
# Rick Halma (Lyon Co.)	AFO	3,000
Honey Creek Campground (Pottawattamie Co.)	WW	1,000
Peeters Development Co.; Mt. Joy MHP (Scott Co.)	WW	10,000
# Ivan Kenney (Guthrie Co.)	AFO	3,000
Randy Griffin (Jasper Co.)	AQ/SW	5,000
# Patrick Jones (Dickinson Co.)	AFO	1,500
Iowa Oil Co.; HRV Petro; Two Holdings (Dubuque)	UT	6,300
Hoover Land Corp.; River Road Golf Club (Algona)	WS	1,375
Colleen Weber (Mitchell Co.)	AQ/SW	1,500
Dirk Graves (Glenwood)	AQ	1,000
Ruby Field, Inc.; Ed Grafke (Sigourney)	UT	5,112
Goettsch Trucking and Seed, Inc. (Galva)	HC	5,500
Reginald Parcel (Henry Co.)	AQ/SW	1,000
Paul Launderville; Midwest Tennis & Track (Denison)	AQ/SW	7,500
Iowa Quality Beef Supply Cooperative (Tama)	WW	10,000
# Douglas J. Pudenz (Carroll Co.)	AFO	8,000
# Scott Lenz (Carroll Co.)	AFO	8,000
# William Mauw; Mauw's Egg Ranch (Sioux Co.)	AFO	3,000
Stuart Yoder	AQ/SW	5,000
# Randy Hauan (Winnebago Co.)	AFO	2,500
TOTAL		530,477

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
#*E & N Farms, Ltd. (Lyon Co.)	AFO	2,700
# Steve Bouchard (Cherokee Co.)	AFO	3,000
* Country Terrace Mobile Home Park (Ames)	WW	220
Mark Ehresman (Huxley)	AQ/SW	2,500
Consolidated Energy Co. LLC (Whiting)	UT	5,000
# James Schmitz (Plymouth Co.)	AFO	3,000
# Harold Deckers; HPD Pork (Sioux Co.)	AFO	3,000
Paul Shimp & S & V Fence Co. (Eldridge)	AQ	550
# Darrell Behrens; Kelly Behrens (Buena Vista Co.)	AFO	3,000
* Roger Holland (Farmington)	WW	2,000
# B & B Sandhill Swine, Inc. (Olin)	AFO	3,000
Richard Juhl (Cass Co.)	AQ/SW	4,700
# Teske Pork, LLC (Hardin Co.)	AFO	3,000
#*Paul Rehder (O'Brien Co.)	AFO	375
Taylor Oil Co., Inc. UST 198602385 (Logan)	UT	1,500
Taylor Oil Co., Inc. UST 8710665 (Missouri Valley)	UT	2,300
Cresline Plastic Pipe (Burlington)	AQ	1,000
# Greg Vanden Bosch; G & T Eggs (Sioux Co.)	AFO	1,500
Atlantic, City of	AQ/SW	8,000
* Exira, City of PAID IN FULL	AQ/SW	1,000
* Dennis Gailey (Moorland)	AQ/SW	600
#*Miles McDougall (Plymouth Co.) PAID IN FULL	AFO	125
#*Richard Beelner; Beelner 1 and 2 (Plymouth Co.)	AFO	100
* Roger Holland (Farmington)	WW	1,000
Martin Marietta Materials (Ames)	AQ	10,000
* Olsen Fuel Supply, Inc. (Atlantic)	UT	2,500
# Al Van Wyhe; Pig Palace (Hawarden)	AFO	1,500
#*Gary R. Johnson (Allamakee Co.)	AFO	500
Shenandoah, City of	AQ/SW	1,000
Donald Hopp (Mills Co.)	SW	500
Sparboe Agricultural Corp. (Webster City)	SW	1,000
* John Danker (Lee Co.)	AQ/SW	138
* John Danker (Lee Co.)	AQ/SW	143
		70,451
	TOTAL	

The following penalty payments were collected by Revenue during the months of October and November.

Troy Degroote (Butler Co.)	AFO/AQ/SW	55.66
Jim Boller (Kalona)	AFO	18.67
Elite, Ltd.; FS Energy Fuel 24, LLC; Roger Kanne	UT	337.50

Duane Crees (Muscatine Co.)	AQ/SW	100.00
Country Stores of Carroll, Ltd.; Roger Kanne	UT	1,161.20
Troy Degroote (Butler Co.)	AFO/AQ/SW	48.10
Jerry Feilen (Pottawattamie Co.)	AQ/SW	792.00
Mitchell Town Pump; Gary Comisky	WS	500.00
Troy Degroote (Butler Co.)	AFO/AQ/SW	46.29
David Niklasen (Shelby Co.)	SW	2,700.00
Country Stores of Carroll, Ltd.; Roger Kanne	UT	135.17
Country Stores of Carroll, Ltd.; Roger Kanne	UT	220.02
Country Stores of Carroll, Ltd.; Roger Kanne	UT	211.68
Troy Degroote (Butler Co.)	AFO/AQ/SW	47.80
TOTAL		6,374.09

Attorney General Referrals**November 1, 2005**

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Aldag, Travis Ida Co. (3) UPDATED	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed	7/18/05 11/29/05
Boyer, William Boyer's Sand & Rock Hawarden (3)	Underground Tank	UST Closure	Order/Penalty	Referred	7/18/05
CDI, LLC Forest City (2)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred	4/28/05
Clinton, City of (6)	Wastewater	Compliance Schedule; Discharge Limits	Referred to Attorney General	Referred	9/19/05
Dos, Jim Black Hawk Co. (1) UPDATED	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed	7/18/05 11/29/05
Gettler, Dean Montgomery Co. (4) UPDATED	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed	8/16/05 11/29/05
Ginger, Roger Everly (3)	Underground Tank	UST Closure	Order/Penalty	Referred	5/15/05
Grain Processing Corp. Muscatine (6)	Air Quality	Emission Standards	Referred to Attorney General	Referred	2/21/05

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Kass, David Plymouth Co. (3)	UPDATED	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed Consent (\$3,000/Admin; \$5,000/Civil; Injunction)	7/18/05 11/29/05 11/30/05
Kelly, Pat d/b/a Kelley Construction Woodbine (4)		Underground Tank	UST Closure	Order/Penalty	Referred	5/16/05
Leigh, Marsha Glenwood (4)		Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Defendant's Motion to Dismiss State's Resistance/Motion to Dismiss Motion to Intervene Hearing on Motion to Dismiss Ruling Denying Motion to Dismiss Resistance to Motion to Intervene Hearing on Motion to Intervene Ruling Denying Motion to Intervene Hearing on Defense Motions	9/20/04 3/29/05 4/20/05 5/02/05 5/12/05 5/23/05 5/23/05 5/23/05 6/27/05 6/29/05 12/05/05
Mobile World LC Camanche (6)		Air Quality Solid Waste	Illegal Disposal Open Burning	Order/Penalty	Referred Petition Filed Bankruptcy Petition Filed Plan for Reorganization Appearance by State in Bankruptcy	8/16/04 4/08/05 4/13/05 4/13/05 6/17/05
Northeast Iowa Citizens for Clean Water (NICCW)		Wastewater	DNR Defendant	Defense	Petition Filed DNR's Answer NICCW's Application for Stay NICCW's Brief for Stay DNR's Resistance DNR's Brief in Resistance Hearing on Motion Ruling Denying Stay NICCW's Motion to Reconsider DNR's Resistance Hearing on Motion to Reconsider Ruling Denying Motion to Reconsider NICCW's Application for Interlocutory Appeal DNR's Resistance to Interlocutory Appeal Supreme Court Order Denying NICCW's Appeal NICCW's Motion for	8/29/03 9/25/03 10/21/03 11/05/03 11/14/03 12/22/03 1/29/04 2/04/04 3/01/04 4/08/04 4/20/04 4/28/04 5/11/04 6/08/04 2/25/05 2/27/06 5/16/05 6/02/05

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					Summary Judgment Trial Date State's Brief in Resistance to Motion for Partial Summary Judgment Hearing on Motion for Partial Summary Judgment Ruling Granting Partial Summary Judgment	6/22/05
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5)					Referred to Attorney General	12/15/97 Petition Filed 10/02/98 Application for 2/04/99 Temporary Injunction 4/19/99 Temporary Injunction 9/13/00 Trial Date 9/28/00 Partial Judgment (Clean-up Order) 12/12/02 Contempt Application 2/20/03 Contempt Hearing Date 2/20/03 Contempt Finding and Civil Penalty (\$100,000 and 30 Days in Jail – Suspended until 7/8/03) 7/09/03 Hearing Regarding 8/01/03 Contempt 8/20/03 Order Regarding 9/18/03 Bond/Cleanup 4/16/04 Deadline 12/10/04 Bond Posted 1/05/05 State Objections to Bond Ruling Denying Objections to Bond Status Hearing Date Hearing on Motion to Extend Cleanup Deadline Order Reinstating \$100,000 Civil Penalty
Peterson, David Lake Mills (2)	NEW	Animal Feeding Operation	Application in Excess of Crop Usage Rate; Prohibited Discharge – Confinement; Failure to Report a Release; WQ Violations – General Criteria	Referred to Attorney General	Referred	11/21/05
Plymouth Dairy Farms Plymouth Co. (3)		Animal Feeding Operation	Prohibited Discharge – Confinement; Record Keeping; Application in Excess of Crop Usage Rate; Freeboard	Referred to Attorney General	Referred	9/19/05
Robertson, Ryan Jefferson Co. (6)		Wastewater	Stormwater Violations Permit	Referred to Attorney General	Referred Petition Filed	4/27/05 9/26/05

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Davenport (6)
UST 8606991/1511 Locust

Tank

Deficiencies;
Check

Site

Attorney General

Stone v. Rembrand Enterprises, Inc.	Animal Feeding Operation	DNR Defendant	Defense	Petition Filed	12/06/04
				State Motion to Dismiss	1/10/05
				Hearing	3/07/05
				Trial Date	4/25/06
				Ruling	Dismissing 5/17/05
				Damage Claims	
Williams, Dean Stuart (2)	Underground Tank	Remedial Action	Referred to Attorney General	Referred	10/17/05

Contested Cases December 2005

4/26/99	Gerald and Judith Vens	6	Order/Penalty	FP	Clark	9/20/04 – DNR staff gathering information to submit to DNR management.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Order/Penalty	AFO	Clark	4/20/04 – ISF and Dept. attorneys unsuccessful attempt to contact AG Wastes Consultants attorney.
7/13/00	Dan Witt	6	Order/Penalty	AFO	Clark	4/26/04 – Settlement invitation letter sent.
12/01/00	Postville, City of	1	Order	WW	Tack*	Settled.
10/02/01	Daryl Larson	6	Order	AFO	Clark	Negotiating before filing.
11/07/01	Sir Fredericks, Inc.	5	Order/Penalty	UT	Wornson	Tier 2 submitted. CADR required. Negotiating penalty. Refer to DIA.
11/27/01	Dallas County Care Facility	5	Order/Penalty	WW	Hansen	10/03 – Letter to County attorney regarding appeal resolution. 1/04 – Letter to attorney regarding appeal. 4/04 – Dept. letter to attorney regarding appeal. 9/04 – Dept. letter to attorney regarding appeal.
1/09/02	Roger Eblen; Roger Eblen Development; Duane Menke	4	Order/Penalty	WW	Tack*	Hearing continued. Settlement discussions with one party. Motion for default vs. Eblen filed 11/26/03 and granted 12/3/03. Motion to set aside default filed. 3/25/04 – FO met on-site with Eblen. Plan of action to be submitted.

1/18/02	Robert Ward	6	Order/Penalty	WW	Tack	Hearing continued to 2/10/06. Ward has hired a contractor to complete clean-up this fall.
1/23/02	Clearview Mobile Home Park	6	Permit Conditions	WW	Hansen	10/31/02 – Construction permit issued for improvement to lagoon system. 10/31/03 – Update on construction project requested from Dept. engineer. 1/30/04 – Status report requested from Dept. staff. 2/24/04 – Letter sent to attorney regarding resolving appeal. 3/15/04 – Letter from facility attorney regarding proposed upgrade with sand filters. 4/26/04 – Dept. letter to MHP attorney requesting construction schedule for project. 5/17/04 – Letter from MHP attorney with new schedule.
1/29/02	Partners Four Investments, Inc.	2	Order/Penalty	UT	Wornson	Tier 2 accepted high risk. Negotiating penalty as condition of completion of further corrective action. Meeting with RP and consultant 9/27/04.
2/20/02	Storm Lake, City of	2	Permit Conditions	WW	Hansen	3/03 – One year of TKN monitoring completed by City. 12/26/03 – Follow-up letter to City attorney regarding status of stream study. 1/04 – City attorney sent letter regarding stream study. 2/04 – Status report requested from Dept. staff. Per Dept. engineer – 3/29/04 City to perform more stream sampling. 6/15/04 – City report received – under review. 7/19/04 – WQ section reviewed stream study results and recalculated WLA and NPDES permit limits. 7/27/04 – WW permits staff to review WLA/permit limits. 8/31/04 – Update requested from WW permits staff. 9/04 – Update requested from WW permits staff.

						10/29/04 – Dept. letter to City resolving issue of TKN monitoring. Case settled. 11/04/04 – City's letter agreeing to dismiss appeal upon issuance of NPDES permit with no TKM monitoring requirements. 10/21/05 – Permit amendment sent to City attorney. Attorney requested to file dismissal motion since all issues are resolved. 11/04/05 – Dismissal filed by City attorney. ALJ issued dismissal order. Case closed.
7/18/02	Mt. Pleasant, City of	6	Order/Penalty	WW	Hansen	\$500 penalty payment received for uncontested portion. 12/03 – Dept. letter with settlement offer. 1/30/04 – Dept. letter sent regarding settlement. 2/24/04 & 3/31/04 – Follow-up letters sent regarding settlement. 4/26/04 – Letter received from City attorney regarding Dept. settlement proposal.
7/23/02	Doug Wedemeyer	4	Order/Penalty	AFO	Clark*	4/30/04 – DNR letter sent.
8/25/02	Kenneth Dahlhauser	2	Order/Penalty	AFO	Clark	3/1/04 – Appellant's attorney agrees to send another settlement letter to client.
9/03/02	Peter Cook	6	Order/Penalty	AQ/SW	Book	Settled. Awaiting clean-up and penalty payment. Sent to the Dept. of Revenue and Finance.
10/01/02	Stan Siems	2	Order/Penalty	AQ/SW	Tack	All tires have been removed. Solid waste to be removed by 10/31/05. Settlement offer sent 9/28/05.
10/02/02	Sioux City, City of	3	Permit Conditions	FP	Clark	4/30/04 – Dept. contacts City to confirm understanding that appeal will be withdrawn.
11/22/02	Schell Family Partnership	5	Order/Penalty	SW/HC	Tack	Tentative settlement reached 7/22/05.
11/27/02	River City Development; Russell Hardy	2	Order/Penalty	UT	Wornson	Appeal untimely. Tiered assessment completed. CADR/Tier 3 initiated. General terms of a penalty

						settlement reached.
11/27/02	Chelsea, City of	5	Order/Penalty	WW	Hansen *	9/18/03 – DNR letter. Will monitor for compliance through winter of 2004.
2/10/03	Doug Osweiler	6	Order/Penalty	AFO	Clark	Negotiating before filing.
2/24/03	Ray Slach	6	Order/Penalty	AFO	Clark	4/29/04 – Settlement invitation letter sent.
3/04/03	Iowa Select Farms; Swartz Finisher Farm	2	Order/Penalty	AFO	Clark	5/28/04 – Dept. makes counter offer in response to appellant's settlement offer. 6/15/04 – Second round of offers.
4/04/03	Natural Pork Production II, LLP (03-AFO-13)	6	Order/Penalty	AFO	Clark*	1/02/04 – DNR letter.
4/25/03	Ag Processing Inc.	2	Permit Conditions	AQ	Preziosi	Still negotiating. Requesting hearing be set.
5/15/03	Steve Walter d/b/a Walter & Son Waste Hauling	6	Order/Penalty	AFO	Clark*	9/1/03 – Facility being sold. Bankruptcy hearing 9/11/03. 1/02/04 – DNR letter to attorney. 5/12/04 – Appellant's response.
6/23/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Kerrigan Gilt/Union Co.)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
6/23/03	D & D Ag Enterprises LLC	4	Order/Penalty	AFO	Clark	Negotiating before filing.
7/01/03	Casey's General Stores (03-UT-03 through 03-UT-06)	4	Order/Penalty	UT	Wornson	Compliance achieved. Awaiting signatures on penalty settlement.
7/10/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Clarke/Union)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
8/12/03	Southern Waste Handling, Inc.	5	Order/Penalty	AFO	Clark	Negotiating before filing.
8/29/03	Country Living Mobile Home Park	5	Order/Penalty	WW	Hansen	6/23/04 – Construction permit issued. Settlement offer will be made. 9/04 – Status report from Dept. engineer requested regarding project construction status. 10/05 – Status report requested from Dept. engineer. 11/05 – Facility upgrade completed. New NPDES permit requested for upgraded facility.
9/02/03	Kent Kiburz	2	Order/Penalty	SW	Tack	11/21/05 – Settled. Penalty rescinded. Case closed.
9/04/03	Easter Enterprises, Inc.	5	Order/Penalty	UT	Wornson	Compliance on non-penalty terms completed. Preparing settlement

						with non-appealing party, Rausch. Will dismiss Easter Enterprises, Inc. as a party.
9/05/03	Strawberry Point, City of	1	Order/Penalty	WW	Hansen*	1/5/04 – City to upgrade facilities, compliance will be monitored through 2005.
9/25/03	Ag Processing Inc.	4	Permit Conditions	AQ	Preziosi	Still negotiating. Requesting hearing be set.
10/01/03	Casey's Marketing Co. UST#8606588, Jefferson	4	Order/Penalty	UT	Wornson	Awaiting signatures on penalty settlement.
10/08/03	TEGH, Inc. (03-UT-15)	6	Order/Penalty	UT	Wornson	Settlement conference scheduled.
10/27/03	B & Food & Gas, Inc. (03-UT-12)	6	Order/Penalty	UT	Wornson	Settlement conference scheduled.
10/27/03	U.S. Nation Mart, Inc. (03-UT-14)	6	Order/Penalty	UT	Wornson	Settlement conference scheduled.
11/19/03	Ron Fisher Furniture	1	Amended Order	AQ	Schoenebaum	Hearing rescheduled for 2/09/06.
11/20/03	ADM – Clinton	6	Permit Conditions	AQ	Preziosi	Negotiating before filing.
11/21/03	Russell and Kay Barkema; K & R Construction	2	Order/Penalty	AQ/SW	Book	Consent amendment final. Payment plan on schedule.
12/02/03	Jeff Holland	2	Order/Penalty	AFO	Clark	Negotiating before filing.
12/15/03	AGP (Emmetsburg)	3	Permit Conditions	AQ	Preziosi	Still negotiating. Requesting hearing be set.
12/22/03	Pocahontas, City of	3	Order/Penalty	WW	Preziosi*	4/06/04 – Settlement offer by City. 4/13/04 – Offer accepted by DNR. 5/26/04 – Fish restitution paid. SEP has not been completed. 10/25/05 – Letter to appellant asking for status of SEP. Deadline for response is 11/15/05.
12/29/03	T. Patrick Cashman; Laurie Cashman	5	Order/Penalty	AFO	Clark	Negotiating before filing.
1/21/04	Bob Kerrigan	4	Order/Penalty	AFO	Clark	Negotiating before filing.
1/30/04	John Schmall d/b/a Carpenter Bar & Grill	2	Order/Penalty	WS	Hansen	2/26/04 – Letter to WS attorney regarding resolving appeal. 9/04 – Per WS section, facility has returned to compliance.
2/09/04	Swine USA, LP	5	Order/Penalty	AFO	Clark	Negotiating before filing.
2/16/04	Iowa Ethanol, LLC; Reilly	2	Order/Penalty	WW	Clark*	Meeting held 4/07/04.

	Construction Co., Inc.					
2/17/04	Broin & Assoc., Inc. aka Otter Creek Ethanol, LLC	3	Order/Penalty	WW	Clark*	Meeting held 4/07/04.
2/17/04	Broin & Assoc., Inc. aka Iowa Ethanol, LLC	2	Order/Penalty	WS/W W	Clark*	Meeting held 4/07/04.
2/18/04	Gettler Dairy, Inc.; Dave and Kristen Gettler	4	Order/Penalty	AFO	Clark	Negotiating before filing.
3/01/04	Shenandoah, City of	4	Order/Penalty	AQ/SW	Tack	\$1,000 penalty settlement paid. Case closed.
3/04/04	Tim Trostel	2	Order/Penalty	AFO	Clark	Negotiating before filing.
3/15/04	Iowa Falls, City of	2	Order/Penalty	WW	Hansen	6/04 – Dept. letter to City attorney regarding settlement.
3/16/04	Axtell Finishers; James Axtell	2	Order/Penalty	AFO	Clark	7/29/04 – Dept. reject Axtell's settlement offer and inquires if immediate transfer to DIA is desired.
4/02/04	LeMars, City of	3	Order/Penalty	WW	Hansen	4/02/04 – Meeting held to discuss settlement. 1/05 – Tentative agreement reached on settlement.
4/08/04	Silver Creek Feeders	4	Permit Conditions	AFO	Clark	Negotiating before filing.
4/16/04	Ag Processing Inc. (Sheldon)	3	Permit Conditions	AQ	Preziosi	Still negotiating. Requesting hearing be set.
4/16/04	Ben Haven Mobile Home Park	1	Order/Penalty	WS	Clark	Negotiating before filing.
4/19/04	ADM – Clinton	6	Permit Conditions	AQ	Preziosi	Negotiating before filing.
4/23/04	Curt Kline; Connie Kline	4	Order/Penalty	AQ	Preziosi	Consent amendment signed 10/24/05. Amendment contains penalty payment schedule.
4/26/04	Miles McDougal	3	Order/Penalty	AFO	Book	Final penalty payment received. Case closed.
5/04/04	West Central Cooperative	4	Permit Denial	AQ	Preziosi	Negotiating before filing.
5/06/04	Terry Nibbelink	3	Order/Penalty	AFO	Clark	5/06/05 - Sent to DIA to be set for hearing. No petition filed. Default issued.
5/12/04	Ag Processing, Inc.	3	Permit Conditions	AQ	Preziosi	Still negotiating. Requesting hearing be set.
5/13/04	Allen Hoepfer	1	Order/Penalty	AFO	Clark	No petition filed. DNR filed for default. Awaiting decision.
5/18/04	Alton, City of	3	Order/Penalty	FP	Clark	Negotiating before

						filing.
5/25/04	CDI, LLC	6	Permit Conditions	AQ	Preziosi	Negotiating before filing.
5/26/04	Casey's Marketing Co. (5 locations)	5	Order/Penalty	AFO	Wornson	Awaiting signatures on penalty settlement.
5/27/04	CDI – Charles City	2	Permit Conditions	AQ	Preziosi	Negotiating before filing.
5/28/04	Maquoketa Shoreline Development, Inc.	1	Order/Penalty	WW	Tack*	Negotiating before filing.
6/11/04	University of Iowa	6	NPDES Permit	WW	Hansen	Negotiating before filing.
6/11/04	Long Branch Maintenance Corp.	4	Order/Penalty	WS	Hansen	7/15/04 – Informal meeting to discuss settlement. Attorney for WS to respond by 8/27/04. 11/10/04 – Full penalty paid and letter from WS's engineer submitted. Dept. engineer determined that letter did not meet Dept. requirements for an engineering report. Hearing re-set for 9/16/05. Settlement meeting set for 7/27/05. Meeting held – proposed consent order discussed. Hearing rescheduled for 11/08/05. 11/05 – Further negotiations on consent order. Hearing continued to 1/24/06.
6/18/04	CDI – Charles City	2	Title V Permit Determination	AQ	Preziosi	Negotiating before filing.
6/18/04	Phillip Renze	3	Order/Penalty	AFO	Clark	Negotiating before filing.
6/24/04	Jansma Cattle Co., Inc.	3	Order/Penalty	AFO	Tack*	Negotiating before filing.
6/25/04	Eischeid Farms, Inc.	4	Order/Penalty	AFO	Clark	Penalty affirmed and paid. Case closed.
6/28/04	Michael Veenstra; Alan Veenstra	5	Order/Penalty	AFO	Clark	Negotiating before filing.
6/28/04	Robin Hower	6	Order/Penalty	AFO	Book	To be sent to DIA to be set for hearing.
6/28/04	Marvin Bates	6	Order/Penalty	AQ/SW /WW	Tack	Site visit scheduled for 12/08/05.
7/15/04	Dean and Sharon Gettler	4	Order/Penalty	AFO	Book	8/15/05 – Referred to AG.
7/26/04	B & B Sandhill Swine	1	Order/Penalty	AFO	Clark	Hearing held 9/15/05. Order and penalty affirmed. Penalty paid. Case closed.
7/26/04	Randy Gergen	3	Order/Penalty	AFO	Clark	Hearing set for 8/29/05.

						No petition filed. Default entered.
8/02/04	James Vermeer	3	Order/Penalty	AFO	Clark	Hearing scheduled for 11/13/06.
8/02/04	Dennis Rowenhorst	3	Order/Penalty	AFO	Book	Hearing scheduled for 1/13/06.
8/06/04	Eldora, City of	1	Permit Conditions	WW	Hansen	WW Permits drafted NPDES permit with revised permit limits and compliance schedule. Legal Services to draft amended order with interim limits.
8/17/04	Harold Dekkers	3	Order/Penalty	AFO	Book	Penalty paid. Case closed.
8/19/04	F.J. Krob & Co.	1	Order/Penalty	HC/W W	Tack*	Penalty settlement paid. Case closed.
8/26/04	Jim Schmitz	3	Order/Penalty	AFO	Clark	Penalty paid. Case closed.
9/01/04	Iowa State University	5	Order/Penalty	WW	Hansen	New permit drafted resolving issues raised in appeal. Consent order to be issued with schedule.11/05 – Consent order drafted.
9/01/04	Marvin Maassen; Maassen & Sons	3	Order/Penalty	AFO	Book	Hearing scheduled for 1/13/06.
9/03/04	David Borchers	3	Order/Penalty	AFO	Book	No petition was filed. Dept. filed for default. Default granted.
9/14/04	Bill Schrock	6	Order/Penalty	WW/S W	Tack	Negotiating before filing.
9/29/04	EnviroBate	4	Order/Penalty	AQ	Book	Air Quality Bureau working on response to facility.
10/04/04	Rose M. Bartles	4	Order/Penalty	AQ/SW	Tack	Negotiating before filing.
10/05/04	Mike Teske; Teske Pork	2	Order/Penalty	AFO	Clark	Penalty paid. Case closed.
10/08/04	Goose Lake, City of	6	Order/Penalty	WS	Hansen	To be set for hearing.
10/12/04	Gary Hart	6	Order/Penalty	AQ/SW	Tack	Cleaning up property.
10/13/04	Charlie Van Meter; Van Meter Feedyard	5	Permit Conditions	WW	Clark	Negotiating before filing.
10/14/04	Linn Grove Hatchery	3	Order/Penalty	AFO	Book	Hearing rescheduled for 11/29/05.
10/19/04	Cedar Rapids, City of	1	Order/Penalty	WW	Hansen*	To be set for hearing.
10/21/04	Eugene Kramer	1	Permit Denial	WR	Clark	Negotiating before filing.
10/26/04	Monty Unkrich	6	Order/Penalty	AFO	Book	To be sent to DIA to be set for hearing.
10/26/04	S & V Fence & Deck Co.	6	Order/Penalty	AQ	Book	Settled. Consent

4						amendment signed.
10/26/04	Puck Custom Enterprises; Natural Pork Production	4	Order/Penalty	AFO	Tack	Settlement meeting to be set.
11/02/04	Mike Elsbernd	1	Order/Penalty	AFO	Book	Hearing rescheduled for 12/06/05.
11/03/04	Greg Vanden Bosch; G & T Eggs	3	Order/Penalty	AFO	Book	Penalty paid. Case closed.
11/05/04	Darrel Behrens; Kelly Behrens	3	Order/Penalty	AFO	Book	Penalty paid. Case closed.
11/09/04	Donald Hopp	4	Order/Penalty	SW	Tack	Consent order signed and penalty paid. Clean-up to be completed by 1/31/06.
11/10/04	Ted T. Smith	3	Order/Penalty	AFO	Clark	Negotiating before filing.
11/19/04	Steve Bouchard	3	Order/Penalty	AFO	Book	Penalty paid. Case closed.
11/30/04	James Brown	3	Order/Penalty	AQ	Book	Waiting to hear from parties on settlement offer.
12/06/04	Keith Kruse	3	Order/Penalty	AFO	Clark	Hearing scheduled for 11/21/05.
12/06/04	Jerry Vander Platts	3	Order/Penalty	AFO	Book	Hearing rescheduled for 1/6/06.
12/07/04	Crestview MHP	5	Order/Penalty	WW	Hansen	8/02/05 – Consent Order sent to MHP attorney for signature. 10/05 – Revised consent order sent to attorney for signature. 11/04/05 – Consent order signed. 11/15/05 – Dismissal order issued by ALJ. Case closed.
12/10/04	IPSCO, Inc.	6	Permit Conditions	AQ	Preziosi	Set for hearing 12/19/05.
12/17/04	Greg Gerber	3	Order/Penalty	AFO	Book	Hearing held 9/19/05. Order and penalty affirmed. Payment plan in place.
1/03/05	Paul Rehder	3	Order/Penalty	AFO	Clark	Hearing scheduled for 11/18/05.
1/04/05	Matt Gehling	4	Order/Penalty	AFO	Clark	Hearing scheduled for 11/21/05.
1/05/05	S.J. Louis Construction	5	Order/Penalty	WW	Hansen	To be set for hearing.
1/06/05	E & N Farms	3	Order/Penalty	AFO	Clark	Settled. Payment plan on schedule.
1/07/05	Wayne A. Staab	3	Order/Penalty	AQ	Preziosi	EPC ruled on 9/19/05. No further appeal.
1/14/05	Russell Knobbe dba Knobbe Bros. Feedlot; Mello Knobbe	4	Order/Penalty	AQ	Preziosi	Hearing set for 10/7/05.
1/18/05	MKKS, LC (5 sites)	5	Order/Penalty	UT	Wornson	Settlement conference scheduled for October.
1/20/05	Pleasant Hill, City of	5	Order/Penalty	WW	Hansen	4/08/05 – Meeting with

						City regarding appeal and settlement. City made settlement offer regarding penalty. Offer rejected by DNR. City to provide further response by 5/05. No response received. To be set for hearing.
1/20/05	Monty Branstad	2	Order/Penalty	AQ/SW	Preziosi	Negotiating before filing.
1/24/05	Lawler, City of	4	Order/Penalty	WW	Hansen	Negotiating before filing.
2/04/05	Honey Creek Campground	4	Order/Penalty	WW	Hansen	10/05 – To be set for hearing.
2/08/05	Crestview Mobile Home Park	5	Permit Conditions	WS	Hansen	11/01/05 - Amended permit issued. 11/15/05 – ALJ issued dismissal order. Case closed.
2/14/05	Rick Halma	3	Order/Penalty	AFO	Book	Hearing set for 11/18/05.
2/16/05	Rick Nikkel	5	Order/Penalty	AFO	Book	Hearing set for 11/18/05.
2/17/05	CDI, LLC	2	Permit Conditions	AQ	Preziosi	Negotiating before filing.
2/24/05	Mt. Joy Mobile Home Park	1	Order/Penalty	WW	Hansen	Negotiating before filing.
3/03/05	Ivan Kenney	4	Order/Penalty	AFO	Clark	Hearing held 10/24/05. Decision and penalty affirmed.
3/08/05	Randy Griffin	5	Order/Penalty	AQ/SW	Tack	Clean-up underway.
3/16/05	S.K. Food and Gas, Inc.; DIWAN LLC 05-UT-02/Brady St., Davenport 8606991	6	Order/Penalty	UT	Wornson	Refer to DIA to be set for hearing.
3/16/05	S.K. Food and Gas, Inc.; DIWAN LLC 05-UT-02/Brady St., Davenport 8606991	6	Order/Penalty	UT	Wornson	Refer to DIA to be set for hearing.
3/23/05	IPSCO (Muscatine)	6	Permit Conditions	AQ	Preziosi	Set for hearing 12/19/05.
3/23/05	Patrick Jones	3	Order/Penalty	AFO	Book	Hearing set for 11/21/05.
3/25/05	Genesis Two Holdings	1	Order/Penalty	UT	Wornson	Compliance achieved awaiting signatures on penalty settlement.
3/25/05	Hoover Land Corp.	2	Order/Penalty	WS	Hansen	Negotiating before filing.
3/25/05	Colleen Weber	2	Order/Penalty	AQ/SW	Tack	Negotiating before filing.
3/31/05	William Butterfield	2	Order/Penalty	AQ/SW	Preziosi	Settled. Consent amendment signed 10/07/05. \$2,400 penalty due on 11/17/05.
4/04/05	Ruby Field; Ed Grafke	6	Order/Penalty	UT	Wornson	Settlement conference 10/27/05. UST closed in Dec., reserved penalty

						settlement.
4/05/05	Dirk D. Graves	4	Order/Penalty	AQ	Tack	Clean –up underway.
4/15/05	Reginald Parcel	6	Order/Penalty	AQ/SW	Preziosi	Hearing set for 4/15/06.
5/02/05	Goettsch Trucking and Seed Co.	3	Order/Penalty	HC	Wornson	Negotiating before filing.
5/12/05	Atlantic, City of	4	Order/Penalty	AQ/SW	Preziosi	Consent order signed 9/16/05. \$8,000 penalty due by 10/16/05. Penalty has not been received.
5/20/05	Midwest Tennis & Track	4	Order/Penalty	AQ/SW	Tack	Negotiating before filing.
5/25/05	Iowa Quality Beef Cooperative	5	Order/Penalty	WW	Hansen	Negotiating before filing.
8/05/05	Scott Lenz	4	Order/Penalty	AFO	Book	Negotiating before filing.
8/11/05	Douglas Pudenz	4	Order/Penalty	AFO	Book	Negotiating before filing.
8/22/05	William Mauw; Mauw's Egg Ranch	3	Order/Penalty	AFO	Book	Negotiating before filing.
10/05/05	Stuart Yoder	6	Order/Penalty	AQ/SW	Book	Settled. Awaiting consent amendment.
11/03/05	Randy Hauan	2	Order/Penalty	AFO	Book	New case.

**Iowa Department of Natural Resources
Environmental Services
Report of WW By-passes**

During the period November 1, 2005 through November 28, 2005, 7 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
<i>October '05</i>	<i>11(9)</i>	0.672	0.691	3	0(0)
November '05	7(11)	0.167	0.045	2	0(0)
December '04	7(11)	0.382	0.004	3	0(0)
January '05	6(5)	0.222	0.057	0	0(0)
February '05	9(10)	5.063	0.049	4	0(0)
March '05	9(7)	0.831	0.032	1	0(0)
April '05	14(8)	0.359	0.087	5	0(0)
May '05	18(9)	0.138	0.003	3	0(0)
June '05	7(7)	0.262	0.068	0	0(0)

July '05	5(3)	0.454	0.004	3	0(0)
August '05	8(13)	0.072	0.019	3	0(0)
September '05	3(5)	0.361	0.003	0	0(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
1	0	0	1	1	4

Monthly Variance Report						
December 2005						
Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	Nestle Purina PetCare Company	Air Quality		Alteration of Burner Configuration	Approved	11/22/05
2	Quad County Corn Processors Cooperative	Air Quality		Installation of Temporary Boiler	Approved	11/18/05
3	Central Iowa Renewable Energy (Central Iowa)	Air Quality		Utilization of Temporary Boiler	Approved	11/18/05
4	Rossiter Farms	Energy & Waste Management		Animal Mortality Composting	Approved	11/09/05
5	Trans Ova Genetics	Energy & Waste Management		Animal Mortality Composting	Approved	11/08/05
6	Magellan Pipeline Company, L.P.	Air Quality		Temporary Storage of Distillate Gasoline Mixture	Approved	11/08/05
7	Precision Pipeline, LLC (Facility # 25-05-002)	Air Quality		Utilization of Tempor- ary Compressor	Approved	11/08/05
8	Precision Pipeline, LLC (Facility # 08-03-004)	Air Quality		Utilization of Tempor- ary Compressor	Approved	11/08/05
9	Clinton County Area Solid Waste Agency	Energy & Waste Management	Barker Lemar Engineering Consultants	Placement and Testing of Soils	Approved	10/06/05
10	Doug Renze Farms	Energy & Waste Management		Animal Mortality Composting	Approved	10/24/05

11	Central Iowa Renewable Energy (Central Iowa)	Air Quality		Utilization of Temporary Boiler	Approved	11/03/05
12	Lincolnway Energy	Air Quality		Utilization of Temporary Boiler	Approved	11/03/05
13	Midwest Grain Processors, LLC	Air Quality		Temporary Uncontrol- led Operation of Fermentation Process	Approved	11/03/05
14	City of Palmer (Iowa)	Wastewater	McClure Engineering	Directional Boring/ Wastewater Disposal Improvements	Approved	10/31/05
15	AgriProcessors, Inc.	Wastewater		Water Quality Standards	Approved	12/01/05

GENERAL DISCUSSION

Wayne Gieselman said that we will have an update on the Soychlor plant in Jefferson.

Catharine Fitzsimmons said that public comment ends today on the construction permit for Soychlor to increase their stack height. We held one informal informational meeting, in which we received one short comment. We did meet with the City Council and asked them if they would be willing for public health assessment. They did agree. The Department of Public Health needs to approve it and they will cover the expenses.

West Coop is putting in additional scrubbers and a higher stack. They are complying within the limits, even much lower than before.

Wayne Gieselman said that AgriProcessors was granted a variance permit this month. If further discussion is wanted, it will need to be done in closed session.

Motion was made by Jerry Peckumn to go into closed session to discuss litigation under Iowa Code 21.5(1)(c). Seconded by David Petty. Roll call vote went as follows: Jerry Peckumn – aye; Lisa Davis Cook – aye; Suzanne Morrow – aye; Darrell Hanson – aye; David Petty – aye; Donna Buell – aye; Mary Gail Scott – aye; Francis Thicke – aye; Henry Marquard – aye. Motion carried unanimously.

Ed Tormey noted the good work of the Attorney General's Office.

Gene Tinker said that the MMP rules and phosphors rules were changed last year. Industry kept talking about two indexes, NRCS and DNR. We kept saying that NRCS and DNR's indexes were the same. We have found an instance where procedurally they are different.

RUSSELL 2, which is the soil loss equation is apart of the input into the phosphorus index.

We adopted the soil map unit which utilizes for RUSSELL 2 needs to be ten percent of the field or greater. So you would use the most erosive soil map unit that will be used for manure application that makes up at least ten percent of the field.

We have found that NRCS may combine two different soil map units that are less than ten percent.

We would like to move to be consistent as NRCS, however our rules are not currently written to reflect that. The option is to come with an emergency package to make that the same, which could be done next month. Procedurally we could request that people use the NRCS method, which is more restrictive. The industry has asked us to be consistent with NRCS, although they have not asked us to be identical with issue since we have found this discrepancy.

What would the Commissioners like to do?

Darrell Hanson said that it's been our intent to be consistent with NRCS as much as possible and since we thought we were initially adopting standards that were consistent with NRCS, I would be okay with an emergency rule.

Wayne Gieselman said that we will get into touch with some industry folks since the rule is more restrictive.

Commissioners were in agreement that the rule should be consistent with NRCS.

The Commissioners discussed the meeting possibilities for next month. A joint NRC/EPC meeting was requested if any Commissioners would be willing.

Commissioners discussed the schedule for next month's meeting.

Jerry Peckumn and Francis Thicke will lead the special commission discussion on non-point source pollution.

Wayne Gieselman addressed the topics for next month:

- Water quality standards
- Open feedlot rules
- NPDES permit fees – ARC put a delay on those until an analysis is done.

NEXT MEETING DATES

January 17, 2006

February 20, 2006

March 20, 2006

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson Darrell Hanson adjourned the meeting at 4:15 p.m., Monday, December 19, 2005.

Jeffrey R. Vonk, Director

Darrell Hanson, Chair

Lisa Davis Cook, Secretary

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Iowa and other affected states have until September 2006 to adopt the new federal rules for CAIR, and submit the revisions for incorporation into the state implementation plan (SIP). States that adopt EPA's "model" cap and trade rules to implement CAIR are afforded "automatic approval" of their SIP.

At the same time that EPA promulgated CAIR, EPA also promulgated the Clean Air Mercury Rule (CAMR) to reduce mercury emissions from coal-fired electric utilities. CAMR is closely related to CAIR because it relies on the CAIR provisions for some of its mercury reductions, and also promotes an emissions cap and trade program. CAMR is currently being challenged at the federal level, and EPA is reconsidering several provisions of the rule. As such, the Department is proposing to implement CAIR and CAMR under separate rulemakings. The rulemaking proposals for CAIR and CAMR are being initiated simultaneously, but will be kept as separate rulemakings in case one of the rulemakings is delayed or terminated.

In May, 2005, the Department convened a technical workgroup to assist with rulemaking activities related to the adoption of CAIR and CAMR. The workgroup's goal was to provide rulemaking recommendations on implementation options of the federal rules. The workgroup consisted of representatives from private electrical utilities, municipal utilities, environmental groups, consumer advocates, the utilities board, electrical cooperatives, and other interested parties. The workgroup met five times between May and August, 2005, to review and discuss the pros and cons of the model cap and trade program versus the use of source specific control measures to meet the state's federally mandated emissions targets.

The majority of the workgroup members made the following rulemaking recommendations to the Department to meet the federally mandated emissions targets under CAIR: 1) Adopt EPA's model cap and trade program for EGUs for NO_x for both annual and ozone season; and 2) Adopt EPA's model cap and trade program for EGUs for SO₂.

It should be noted that the Iowa Sierra Club did not endorse the cap and trade recommendation, stating that the national Sierra Club's position is that it does not support a cap and trade approach to emissions reductions. However, based on EPA's analysis, the cap and trade provisions of CAIR will provide cleaner air while allowing for continued economic growth. States choosing CAIR's cap and trade approach will protect public health and the environment without interfering with the steady flow of affordable energy for consumers and businesses. Further, EPA states that the flexibility of trading allowances creates financial incentives for electricity generators to look for new and low-cost ways to reduce emissions and improve the effectiveness of pollution control equipment.

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